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Rules of Governmental Agencies

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June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Egg and Egg Products Act
- 2) Code Citation: 8 Ill. Adm. Code 65
- 3) Section Numbers:
65.90 Proposed Action:
65.160 Amendment
Amendment
- 4) Statutory Authority: Section 13 of the Illinois Egg and Egg Products Act
[410 ILCS 615/13]
- 5) A Complete Description of the Subjects and Issues Involved: Amendments are being proposed to clarify the Department's jurisdiction concerning egg holding temperatures.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will be granted for receiving comments from the public. This comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. Comments should be sent to the attention of:

Debbie Wakefield
Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713
Fax: 217/785-4505
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Egg licensees.
- B) Reporting, bookkeeping or other procedures required for compliance:
No additional requirements.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: No additional professional skills are required.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996
- The full text of the Proposed amendments begin on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER 1: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 65

EGG AND EGG PRODUCTS ACT

Section

- 65.10 Definitions
- 65.20 Packaging Material, Master Containers, Packing Material and Consumer-Size Containers
- 65.30 Consumer Container Labeling Requirements
- 65.40 Restrictions
- 65.50 Master Container Labeling Requirements
- 65.60 Advertising
- 65.70 Brand or Firm Name
- 65.80 Food Preparation
- 65.90 Holding Temperature
- 65.100 Application for License or Renewal; Revocation or Suspension of License
- 65.110 Licenses
- 65.120 Surety Bond or Certificate of Deposit (Repealed)
- 65.130 Required Forms and Records
- 65.140 Minimum Sanitation, Building and Labeling Requirements for Egg Breaking Establishments
- 65.150 Minimum Sanitation and Operating Requirements for Shell Egg Grading Plants, Not Under Federal Inspection, Engaged in the Grading, Storage, Packaging and Distribution of Eggs
- 65.160 Minimum Sanitation Requirements for Retailers and Institutional Consumers
- 65.170 Retail Egg Inspection
- 65.180 Enforcement
- 65.190 Restricted Eggs (Definition, Labeling, Handling, Disposition)
- 65.200 Denaturants
- 65.210 Egg Inspection Fee
- 65.220 Illinois Grade Standards
- 65.230 Administrative Hearings (Repealed)

AUTHORITY: Implementing and authorized by Section 13 of the Illinois Egg and Egg Products Act [410 ILCS 615/13].

SOURCE: Rules and Regulations for the Illinois Egg and Egg Products Act, filed October 28, 1975, effective November 1, 1975; amended March 2, 1976, effective March 12, 1976; amended December 29, 1976, effective January 1, 1977; codified at 5 Ill. Reg. 10449; amended at 7 Ill. Reg. 2311, effective February 14, 1983; amended at 17 Ill. Reg. 6749, effective April 27, 1993; amended at 19 Ill. Reg. 16933, effective January 1, 1996; amended at 20 Ill. Reg. _____,

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

effective _____.

Section 65.90 Holding Temperature

- a) From the point of candling and grading (including transportation), all eggs designated for human consumption shall be held at a temperature not to exceed 45° F. ambient temperature after processing until they reach the retailer consumer.
~~the--450-F--requirement--will--begin--after--the--candling--and--grading--and--will--apply--to--any--place--or--room--in--which--the--eggs--are--stored--~~
~~During--transportation--eggs--shall--be--held--in--vehicles--capable--of--delivering--air--at--450-F--ambient--temperature--Every--effort--shall--be--made--to--hold--the--eggs--at--450-F--ambient--temperature--~~
- b) All shell eggs shall be kept from freezing.
- c) Nest run eggs shall be held at 60° F. or less at all times, including during transportation.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 65.160 Minimum Sanitation Requirements for Retailers and Institutional Consumers

- a) Only new packaging material will be used to sell eggs at retail. This regulation applies to any size container and the packing material used therein.
- b) Display cases in which eggs are offered for sale to consumers must be clean and free from any substances or conditions whereby the eggs could become adulterated through absorption of bacteria or odors which would affect the quality of taste of the eggs.
- c) All storage areas where eggs are held prior to being placed in display cases or other area accessible to consumers must be continuously maintained in a clean and sanitary condition. Eggs will not be stored in the same area with:
 - 1) consumer-size containers which have been rejected for damaged eggs,
 - 2) onions, fish, and other strong smelling food items,
 - 3) cleaning compounds, pesticides or any other chemicals of any kind or sort whatsoever.
- d) ~~Upon--receipt--of--eggs--it--is--the--responsibility--of--the--retailer--or--institutional--consumer--to--see--that--they--are--placed--in--a--cooler--cold--room--or--display--case--in--which--the--temperature--does--not--exceed--450-F--at--any--time--during--which--the--eggs--are--held--in--the--facility--in--addition--eggs--shall--be--protected--from--freezing--~~
- e) Institutional consumers shall not keep shell eggs in the kitchen or cooking area for longer than one hour from the time they are removed from the cooler.
- f) Retailers and institutional consumers should keep their supplies of

DEPARTMENT OF AGRICULTURE

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eggs properly rotated at all times so that the oldest eggs as determined by the candling date on the master containers or consumer-size containers are used first.

f) Consumer-size containers holding damaged eggs whereby the contents are exuding or free to exude through the shell membranes shall be removed from the display area. If such damage results in spillage of egg contents on other cartons or upon the bottom of the display case, the cartons or display case floor must be cleaned within a reasonable time.

g) In all storage areas, master containers shall be kept above the floor at all times.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

1) Heading of the Part: General Conformity: Criteria and Procedures

2) Code Citation: 35 Ill. Adm Code 255

3) Section Numbers: Proposed Action:

255.100	Add
255.110	Add
255.120	Add
255.140	Add
255.150	Add
255.160	Add
255.170	Add
255.180	Add
255.190	Add
255.200	Add
255.210	Add
255.220	Add
255.230	Add
255.240	Add

4) Statutory Authority: Sections 4 and 9.1 of the Environmental Protection Act [415 ILCS 5/4 and 9.1].

5) A Complete Description of the Subjects and Issues Involved: These proposed rules are required by Section 176 of the Clean Air Act, as amended in 1990. Illinois is required to adopt criteria and procedures for federal agencies to use in determining whether their actions (e.g., funding, permitting) in a nonattainment or maintenance area are consistent with the applicable State Implementation Plan (SIP). These rules apply to the following nonattainment and maintenance areas: for ozone - Chicago, Metro-East, and Jersey County areas; for sulfur dioxide - Peoria/Tazewell area; and for PM-10 - Granite City, Lake Calumet, McCook, and Oglesby.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: These proposed rules are required by the 1990 Amendments to the Clean Air Act and do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

Proposed rulemaking: An Agency hearing on the proposed regulations and SIP is scheduled for October 25, 1996, at 1 pm, James R. Thompson Center, Room 9-031, Chicago, Illinois. Questions or written comments concerning this rulemaking should reference EPA #355-96 and be sent to:

John Williams
Agency Hearing Officer
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276
217/782-5544

or

Rachel Doctors
Assistant Counsel
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276
217/524-3333

Written comments must be received by the Illinois EPA by October 26, 1996, for inclusion in the hearing record.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: No effect is anticipated as the requirements pertain only to federal agency actions.

B) Reporting, Bookkeeping or other procedures required for compliance:
N/A

C) Types of professional skills necessary for compliance: N/A

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Propose Rule(s) begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 255

GENERAL CONFORMITY: CRITERIA AND PROCEDURES

Section	Purpose
255.100	Federal Requirement
255.110	Applicability
255.120	Definitions
255.140	Abbreviations
255.150	Incorporations by Reference
255.160	Activities Exempt from Conformity Analysis
255.170	Conformity Analysis
255.180	Reporting Requirements
255.190	Public Participation
255.200	Frequency of Conformity Determinations
255.210	Criteria for Determining Conformity of General Federal Actions
255.220	Procedures for Conformity Determinations of General Federal Actions
255.230	Procedures for Conformity Determinations of General Federal Actions
255.240	Mitigation of Air Quality Impacts

AUTHORITY: Authorized and implemented by Sections 4 and 9.1 of the Environmental Protection Act [415 ILCS 5/4 and 9.1].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 255.100 Purpose

The purpose of this Part is to establish criteria and procedures substantively similar to 40 CFR part 51 subpart W whereby Federal agencies required to make conformity determinations of Federal actions to Illinois' air quality implementation plans may consult and coordinate with the IEPA.

Section 255.110 Federal Requirement

- Section 176(b)(1) of the Federal Clean Air Act (CAA) requires that any department, agency, or instrumentality of the Federal Government that engages in, supports in any way, provides financial assistance for, licenses, permits, or approves any activity must conform to an applicable implementation plan.
- A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan before the action is taken.
- Subsection (b) of this Section does not include Federal actions where

ENVIRONMENTAL PROTECTION AGENCY

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either:

- 1) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994;
 - 2) Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis;
 - 3) Sufficient environmental analysis is completed by March 15, 1994, so that the Federal agency may determine that the Federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the Federal agency's affirmative obligation under section 176(c) of the CAA; or
 - 4) A written determination of conformity under section 176(c) of the CAA has been made by the Federal agency responsible for the Federal action by March 15, 1994.
- d) Notwithstanding any provisions of this Part, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the CAA.

Section 255.120 Applicability

- a) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under the Interstate Surface Transportation Efficiency Act (ISTEA) (Title 23 U.S.C.) or the Federal Transit Act (49 U.S.C. 1601 et seq.) are not subject to the requirements of this Part.
- b) For Federal actions not covered by subsection (a) of this Section and not exempt pursuant to Section 255.170 of this Part, a conformity determination is required for each pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in subsection (b)(1) or (b)(2) of this Section:

- 1) Nonattainment Areas:

Tons/Year

Ozone (VOC's or NOx):

Serious NAA's

50

Severe NAA's

25

Extreme NAA's

10

Other ozone NAA's outside an ozone

100

transport region

Marginal and moderate NAA's inside an

ozone transport region:

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VOC

50

NOx

100

Carbon monoxide:

100

All NAA's

SO[2] or NO[2]:

100

All NAA's

PM-10:

100

Moderate NAA's

Serious NAA's

70

Pb:

25

All NAA's

2) Maintenance Areas:

Tons/Year

Ozone (NOx) SO[2] or NO[2]:

100

All maintenance areas

Ozone (VOC's):

Maintenance areas inside an ozone

transport region

50

Maintenance areas outside an ozone

transport region

100

Carbon monoxide:

100

All maintenance areas

PM-10:

100

All maintenance areas

Pb:

25

All maintenance areas

Section 255.140 Definitions

Terms used but not defined in this Part shall have the meaning given to them by the CAA and USEPA's regulations (40 CFR chapter I) in that order of priority:

"Affected Federal land manager" means the Federal agency or the Federal official charged with direct responsibility for management of an area designated as Class I under the CAA (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

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"Applicable implementation plan or applicable SIP" means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA.

"Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

"Cause or contribute to a new violation" means a Federal action that:

Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken; or

Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

"Caused by", as used in the terms "direct emissions" and "indirect emissions", means emissions that would not otherwise occur in the absence of the Federal action.

"Criteria pollutant or standard" means any pollutant for which there is established a NAAQS at 40 CFR part 50, incorporated by reference in Section 255.160 of this Part.

"Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

"Emergency" means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this Part, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

"Emissions budgets" are those portions of the applicable SIP's projected emissions inventories that describe the levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable

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further progress milestones, attainment, and/or maintenance for any criteria pollutant or its precursors.

"Emissions offsets", for purposes of Section 255.220 of this Part, are emissions reductions which are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable at both the State and Federal levels, and permanent within the timeframe specified by the program.

"Emissions that a Federal agency has a continuing program responsibility for" means emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the Federal agency. Where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a non-Federal entity taking subsequent actions, such emissions are covered by the meaning of a continuing program responsibility.

"Federal action" means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under ISTEA (23 U.S.C.) or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase or the non-Federal undertaking that requires the Federal permit, license, or approval.

"Federal agency" means, for purposes of this Part, a Federal department, agency, or instrumentality of the Federal government.

"Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

"Indirect emissions" means those emissions of a criteria pollutant or its precursors that:

Are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable; and

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The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency.

"Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

"Maintenance area" means an area with a maintenance plan approved under section 175A of the CAA.

"Maintenance plan" means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

"Metropolitan Planning Organization (MPO)" means that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under section 134 of the ISTEA (23 U.S.C. 134) and section 1607 of the Federal Transit Act (49 U.S.C. 1607).

"Milestone" has the meaning given in sections 82(g)(1) and 189(c)(1) of the CAA.

"National ambient air quality standards (NAAQS)" means those standards established pursuant to section 109 of the CAA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone, particulate matter (PM-10), and sulfur dioxide (SO₂).

"NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

"Nonattainment Area (NAA)" means an area designated as nonattainment under section 107 of the CAA and described in 40 CFR part 81, incorporated by reference in Section 255.160 of this Part.

"Precursors of a criteria pollutant" means:

For ozone, nitrogen oxides (NO_x) unless an area is exempted from NO_x requirements under section 182(f) of the CAA, and volatile organic compounds (VOC); and

For PM-10, those pollutants described in the PM-10 nonattainment area applicable SIP as significant contributors to the PM-10 levels.

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"Reasonably foreseeable emissions" means projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable, as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

"Regional water and/or wastewater projects" means construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

"Regionally significant action" means a Federal action for which the direct and indirect emissions of any pollutant represent 10 percent (.10) or more of a nonattainment or maintenance area's emissions inventory for that pollutant.

"Total of direct and indirect emissions" means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the "net" emissions, considering all direct and indirect emissions. The portion of emissions which are exempt or presumed to conform under Sections 255.170(a) through (g) this Part are not included in the total of direct and indirect emissions. The "total of direct and indirect emissions" includes emissions of criteria pollutants and emissions of precursors of criteria pollutants.

Section 255.150

Abbreviations

CAA	Clean Air Act	Environmental Response, Compensation and
CERCLA	Comprehensive Liability Act	
EA	environmental assessment	
EIS	environmental impact statement	
FONSI	finding of no significant impact	
IEPA	Illinois Environmental Protection Agency	
ISTEA	Intermodal Surface Transportation Efficiency Act	
km	kilometer	
MPO	metropolitan planning organization	
mi	mile	
NAA	nonattainment area	
NAAQS	National Ambient Air Quality Standard	
NEPA	National Environmental Policy Act	
NSR	New Source Review	
PSD	Prevention Significant Deterioration	
SIP	state implementation plan	
USEPA	United States Environmental Protection Agency	

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Incorporations by Reference

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The following materials are incorporated by reference and do not contain any subsequent additions or amendments:

- a) Determining Conformity of General Federal Actions to State or Federal Implementation Plans, 40 CFR part 51 subpart W.
- b) National Primary and Secondary Ambient Air Quality Standards, 40 CFR part 50 (1995).
- c) Designations of Areas for Air Quality Purposes, 40 CFR part 81 (1995).
- d) Compilation of Air Pollutant Emission Factors (AP-42) the Technical Support Division of OAQPS, EPA, MD-14, Research Triangle Park, NC 27711.
- e) Guidelines on Air Quality Models (Revised) (1986), including supplement (USEPA publication no. 450/2-78-027R) Technical Support Division of OAQPS, EPA, MD-14, Research Triangle Park, NC 27711.

Section 255.170 Activities Exempt from Conformity Analysis

The requirements of this Part shall not apply to:

- a) Actions where the total of direct and indirect emissions are below the emissions levels specified in Sections 255.120(b)(1) and (b)(2) of this Part.
- b) The following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:
 - 1) Judicial and legislative proceedings.
 - 2) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.
 - 3) Rulemaking and policy development and issuance.
 - 4) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.
 - 5) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel.
 - 6) Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.
 - 7) The routine, recurring transportation of material and personnel.
 - 8) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul.
 - 9) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.
 - 10) Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to

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activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency.

- 11) The granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted.
- 12) Planning, studies, and provision of technical assistance.
- 13) Routine operation of facilities, mobile assets and equipment.
- 14) Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer.
- 15) The designation of empowerment zones, enterprise communities, or viticultural areas.
- 16) Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.
- 17) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank to effect monetary or exchange rate policy.
- 18) Actions that implement a foreign affairs function of the United States.
- 19) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.
- 20) Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.
- 21) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.
- c) The following actions where the emissions are not reasonably foreseeable:

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- 1) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.
- 2) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.
- d) Actions which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.
- e) Notwithstanding the other requirements of this Part, a conformity determination is not required for the following Federal actions (or portion thereof):

- 1) The portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (section 173 of the CAA) or the prevention of significant deterioration (PSD) program (title I, part C of the CAA).
- 2) Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of subsection (f) of this Section.
- 3) Research, investigations, studies, demonstrations, or training (other than those exempted under subsection (b) of this Section), where no environmental detriment is incurred and/or where the particular action furthers air quality research.
- 4) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions).
- 5) Direct emissions from remedial and removal actions carried out under CERCLA and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.
- f) Federal actions which are part of a continuing response to an emergency or disaster under subsection (e)(2) of this Section and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under subsection (e)(2) of this Section are exempt from the requirements of this Part only if:
 - 1) The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or
 - 2) For actions which are to be taken after those actions covered by

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- subsection (f)(1) of this Section, the Federal agency makes a new determination as provided in subsection (f)(1) of this Section.
- g) Notwithstanding other requirements of this Part, actions specified by individual Federal agencies that have met the criteria set forth in either subsection (h)(1)(A) or (B) of this Section and the procedures set forth in subsection (i) of this Section are presumed to conform, except as provided in subsection (j) of this Section.
- h) The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either subsection (1) or (2) of this subsection (h):
 - 1) The Federal agency must clearly demonstrate using methods consistent with this Part that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:
 - A) Cause or contribute to any new violation of any standard in any area;
 - B) Interfere with provisions in the applicable SIP for maintenance of any standard;
 - C) Increase the frequency or severity of any existing violation of any standard in any area; or
 - D) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:
 - i) A demonstration of reasonable further progress;
 - ii) A demonstration of attainment; or
 - iii) A maintenance plan; or
 - 2) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in Section 255.120(b)(1) and (2) of this Part, based, for example, on similar actions taken over recent years.
- i) In addition to meeting the criteria for establishing exemptions set forth in subsection (h)(1) or (h)(2) of this Section, the following procedures must also be complied with to presume that activities will conform:
 - 1) The Federal agency must identify through publication in the Federal Register its list of proposed activities that are presumed to conform and the basis for the presumptions;
 - 2) The Federal agency must notify USEPA Region V Office, IEPA, local air quality agencies and, where applicable, the agency designated under section 174 of the CAA and the MPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform;
 - 3) The Federal agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and
 - 4) The Federal agency must publish the final list of such activities

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in the Federal Register.

- j) Notwithstanding the other requirements of this Part, when the total of direct and indirect emissions of any pollutant from a Federal action does not equal or exceed the rates specified in Section 255.120(b)(1) or (2) of this Part, but represents ten percent (.10) or more of a nonattainment or maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and the requirements of Sections 255.110 and 255.190 through 255.240 of this Part shall apply for the Federal action.
- k) Where an action otherwise presumed to conform under subsection (g) of this Section is a regionally significant action or does not in fact meet one of the criteria in subsection (h)(1) of this Section, that action shall not be presumed to conform and the requirements of Sections 255.110 and 255.190 through 255.240 of this Part shall apply for the Federal action.
- l) The provisions of this Part shall apply in all nonattainment and maintenance areas.

Section 255.180 Conformity Analysis

Any Federal department, agency, or instrumentality of the Federal government taking an action subject to the requirements of this Part must make its own conformity determination consistent with the requirements of this Part. In making its conformity determination, a Federal agency must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

Section 255.190 Reporting Requirements

- a) A Federal agency making a conformity determination under Section 255.220 of this Part must provide to appropriate USEPA Region V Office, IEPA, local air quality agencies and, where applicable, affected Federal land managers, the agency designated under section 174 of the CAA, and the MPO a 30 day notice which describes the proposed action and the Federal agency's draft conformity determination on the action.
- b) A Federal agency must notify USEPA Region V Office, IEPA, local air quality agencies and, where applicable, affected Federal land managers, the agency designated under section 174 of the CAA and the MPO within 30 days after making a final conformity determination under Section 255.220 of this Part.

Section 255.200 Public Participation

- a) Upon request by any person regarding a specific Federal action, a Federal agency must make available for review its draft conformity

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determination under Section 255.220 of this Part with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

- b) A Federal agency must make public its draft conformity determination under Section 255.220 of this Part by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.
- c) A Federal agency must document its response to all the comments received on its draft conformity determination under Section 255.220 of this Part, and make the comments and responses available, upon request by any person regarding a specific Federal action, within 30 days after the final conformity determination.
- d) A Federal agency must make public its final conformity determination under Section 255.220 of this Part for a Federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days after the final conformity determination.

Section 255.210 Frequency of Conformity Determinations

- a) The conformity status of a Federal action shall lapse 5 years from the date a final conformity determination is reported under Section 255.190 of this Part, unless the Federal action has been completed or a continuous program has been commenced to implement that Federal action within a reasonable time.
- b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the final conformity determination reported under Section 255.190 of this Part.
- c) If, after the conformity determination is made, the Federal action is changed so that there is an increase in the total of direct and indirect emissions above the levels in Section 255.120(b)(1) and (2) of this Part, a new conformity determination is required.

Section 255.220 Criteria for Determining Conformity of General Federal Actions

- a) An action required under Section 255.120(b)(1) and (2) of this Part to have a conformity determination for a specific pollutant will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in Section 255.120(b)(1) and (2) of this Part, or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of subsection (c) of this Section, and meets any of the following requirements:

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- 1) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;
- 2) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;
- 3) For any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meets the requirements specified in:

- A) Subsection (b) of this Section, based on areawide air quality modeling analysis and local air quality modeling analysis; or
- B) Subsection (a)(5) of this Section and, for local air quality modeling analysis, the requirement of subsection (b) of this Section;

4) For CO or PM-10:

- A) Where the IEPA advises that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meets the requirements specified in subsection (b) of this Section, based on local air quality modeling analysis; or

- B) Where the IEPA advises that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meets the requirements specified in subsection (b) of this Section, based on areawide modeling, or meets the requirements of subsection (a)(5) of this Section; or

- 5) For ozone or nitrogen dioxide, and for purposes of subsections (a)(3)(B) and (a)(4)(B) of this Section, each portion of the action or the action as a whole meets any of the following requirements:

- A) Where USEPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and IEPA makes a determination as provided in subsection (a)(5)(A)(i) of this Section or where the State makes a commitment as provided in subsection (a)(5)(A)(ii) of this Section:

- i) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by IEPA to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP;
- ii) The total of direct and indirect emissions from the

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action (or portion thereof) is determined by IEPA to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the Director of IEPA makes a written commitment to USEPA which includes the following:

a schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;

identification of measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

a determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

written documentation including all air quality analyses supporting the conformity determination;

- B) The action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP;

- C) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

- D) Where USEPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total of direct and indirect emissions from the action for the future years (described in Section 255.230 of this part) do not increase emissions with respect to the baseline emissions:

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- i) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed Federal action during:

calendar year 1990;

the calendar year that is the basis for the classification (or, where the classification is based on multiple years, the most representative year), if a classification is promulgated in 40 CFR part 81, incorporated by reference in Section 255.160 of this Part; or

the year of the baseline inventory in the PM-10 applicable SIP;

- ii) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in Section 255.230(d) of this Part using the historic activity levels (described in subsection (a)(5)(D)(i) of this Section) and appropriate emission factors for the future years; or

- E) Where the action involves regional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

- b) The areawide and/or local air quality modeling analyses must:

- 1) Meet the requirements in Section 255.230 of this Part; and
2) Show that the action does not:

- A) Cause or contribute to any new violation of any standard in any area; or
B) Increase the frequency or severity of any existing violation of any standard in any area.

- c) Notwithstanding any other requirements of this Section, an action subject to this Part may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

- d) Any analyses required under this Section must be completed, and any mitigation requirements necessary for a finding of conformity must be identified, before the determination of conformity is made.

Section 255.230 Procedures for Conformity Determinations of General Federal Actions

- a) The analyses required under this Part must be based on the latest

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planning assumptions.

- 1) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO, regional planning commission or other agency authorized to make such estimates, where available.
- 2) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, shall be developed in consultation with the regional planning commission, MPO or other agency authorized to make such estimates for the urban area.

- b) The analyses required under this Part must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the USEPA Regional Administrator is obtained for any modification or substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program. Any modification and substitution shall be done in consultation with IEPA and USEPA.

- 1) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by USEPA and available for use in the preparation or revision of SIPs in this State must be used for the conformity analysis as specified in subsections (b)(1)(A) and (B) of this Section:

- A) The USEPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and
B) A grace period of 3 months shall apply during which the motor vehicle emissions model previously specified by USEPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than 3 years before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by USEPA.
- 2) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP-42)" as incorporated by reference in Section 255.160 of this Part must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.
- c) Any air quality modeling analyses necessary to demonstrate conformity shall be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (1986), including supplements (EPA publication no. 450/2-78-027R), incorporated by reference in Section 255.160 of this Part, unless:

- 1) The guideline techniques are inappropriate, in which case the

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model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

2) Any modification of substitution shall be done in consultation with USEPA.

d) The analyses required under this Part, except Section 255.220(a)(1) of this Part, must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

- 1) The CAA mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;
- 2) The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and
- 3) Any year for which the applicable SIP specifies an emissions budget.

Section 255.240 Mitigation of Air Quality Impacts

a) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit time lines for implementation. Such measures shall become an integral component of the Federal action being determined to conform. Failure to implement committed mitigation measures will jeopardize the conformity determination and expose the Federal agency to enforcement provisions of the CAA.

b) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to assure the implementation of any mitigation measures which are identified as conditions for making conformity determinations.

c) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

d) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on binding the entity to implement the mitigation measures set forth in the conformity determination.

e) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of Section 255.190 of this Part and the public participation requirements of Section 255.200 of this Part.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Electronic Filing

2) Code Citation: 50 Ill. Adm. Code 4405

3) Section Numbers: Proposed Action:
4405.10 New Section
4405.20 New Section
4405.30 New Section
4405.40 New Section

4) Statutory Authority: Implementing Section 22-503 and authorized by Section 22-501.1 of the Illinois Pension Code [40 ILCS 5/22-503 and 22-501.1].

5) A Complete Description of the Subjects and Issues Involved: The Pension Division of the Illinois Department of Insurance is charged with formulating and collecting annual reports from the pension and retirement systems of over 566 suburban and downstate police and fire pension funds, as well as Cook County and other large statewide retirement systems that fall within the scope of the Illinois Pension Code. In order to increase the efficiency and use of the information provided in the annual report of these filings, electronic filing is being implemented. This filing system will allow easier access to information and will decrease costs in processing, which will allow for a voluminous reduction in the amount of paper being handled and as a result provide a faster, more accurate means of verifying data. In addition, electronic filing allows the data to be preserved and presented in a form that is usable for comparison and analysis.

6) Will this proposed Rule replace emergency rule currently in effect? No

7) Does this Rule contain an automatic repeal date? No

8) Does this proposed Rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell
Staff Attorney

Denise Hamilton
Rules Unit Supervisor

DEPARTMENT OF INSURANCE

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Department of Insurance
320 West Washington (or) 320 West Washington
Springfield, IL 62767
(217) 524-1634
(217) 785-8560

12) Initial Regulatory Flexibility Analysis: This rule will not affect small municipalities as that term is defined in Section 1-80 of the Illinois Administrative Procedure Act [5 ILCS 100/1-80].

13) Regulatory Agenda on which this Rule was summarized: July 1996

The full text of the Proposed Rule begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aaa: PENSIONS

PART 4405
ELECTRONIC FILING

Section	Authority
4405.10	Purpose and Scope
4405.20	Electronic Filing
4405.30	Procedure
4405.40	

AUTHORITY: Implementing Section 22-503 and authorized by Section 22-501.1 of the Illinois Pension Code [40 ILCS 5/22-503 and 22-501.1].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 4405.10 Authority

This Part is promulgated by the Director of Insurance of the State of Illinois pursuant to Section 22-501.1 of the Illinois Pension Code which empowers the Director to "...make reasonable rules and regulations...as may be necessary for making effective and implementing the provisions of the Pension Code..." [40 ILCS 5/22-501.1]. Further authority is granted through the Division's requirement of accepting annual reports from all pension funds [40 ILCS 5/22-503].

Section 4405.20 Purpose and Scope

The purpose of this Part is to establish mandatory electronic filing of annual statements to the Pension Division of the Illinois Department of Insurance.

This Part shall apply to all pensions, annuity or retirement funds or systems, which are not financed in whole or part by the State of Illinois.

Section 4405.30 Electronic Filing

All pension, annuity or retirement funds or systems within the scope of this Part shall file their annual statement electronically with the Pension Division of the Illinois Department of Insurance. For purposes of this Part, electronic filing shall mean the transmittal of information over computer lines, with the use of a modem/facsimile, directly into the computer data base of the Department of Insurance.

Section 4405.40 Procedure

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- a) Each fund shall be responsible for ensuring effective delivery of its annual report through the electronic filing system.
- b) The perimeters and the substance of the annual statement report shall be furnished to each pension annuity and retirement fund or system by the Department at least 60 days prior to the deadline date for submission.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Number: 160.10
Proposed Action: Amendment
160.71 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].
- 5) Complete Description of the Subjects and Issues Involved:

Section 160.10

These proposed amendments provide for the cancellation of non-assistance cases due to the non-assistance client's representation by a private attorney. This rulemaking will enable the Department to concentrate its efforts on behalf of clients who seek State-supported services, without any additional resources (for example, employing a private attorney).

As a result of this rulemaking, child support enforcement services will be terminated when a Title IV-D client retains a private attorney. The Department will cease providing Title IV-D services upon the filing of an appearance by a private attorney representing a Title IV-D client in a proceeding to establish paternity, or establish, modify, or enforce a child support obligation. The cessation of services under these provisions will not affect the Department's ability to enforce and collect past-due support (including medical support) previously assigned to the Department.

Section 160.71

The intent of this rulemaking is to establish the criteria governing the crediting of child support accounts receivable for payments made directly to the Title IV-D client. The criteria will be applied to cases where the operative court or administrative order for support requires child support payments to be made to the clerk of the court or the Department. These proposed amendments provide that the Department will credit its child support accounts receivable for payments made directly to the Title IV-D client when:

- 1) a court of competent jurisdiction enters an order requiring credit; or
- 2) the following circumstances exist:
 - A) the case is an intrastate case; and
 - B) no payments are owed to the State of Illinois under assignment of support rights; and
 - C) there has been no other instance, after the effective date of

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this rulemaking, in which the Department credited its child support accounts receivable for payments made by the responsible relative directly to the title IV-D client; and

D) the title IV-D client signs a statement specifying the payments that the client is requesting be credited to the accounts receivable; or

E) the responsible relative provides the Department with documentation (such as copies of canceled checks or money order receipts) showing that the payments for which the relative is requesting credit were made and the title IV-D client signs a statement acknowledging receipt of the payments as child support.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
160.70	Amendment	May 24, 1996 (20 Ill. Reg. 7288)
10)	Statement of Statewide Policy Objectives:	These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, IL 62762
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The

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Department will accept and consider any written comments concerning such effects that may be submitted in response to these proposed amendments. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section
160.1 Incorporation By Reference
160.5 Definitions
160.10 Child Support Enforcement Program
160.12 Administrative Accountability Process
160.15 Application Processing Fee for IV-D Non-AFDC Cases
160.20 Assignment of Rights to Support
160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section
160.30 Cooperation With Support Enforcement Program
160.35 Good Cause For Failure to Cooperate With Support Enforcement
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
160.45 Suspension of Child Support Enforcement Upon Finding of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section
160.60 Establishment of Support Obligations
160.61 Uncontested and Contested Administrative Paternity and Support Establishment
160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section
160.70 Enforcement of Support Orders
160.71 Credit for Payments Made Directly to the Title IV-D Client
160.75 Withholding of Income to Secure Payment of Support
160.77 Past Due Support Information to State Licensing Agencies
160.80 Amnesty - 20% Charge
160.85 Diligent Efforts to Serve Process

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section
160.90 Earmarking Child Support Payments

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SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
160.100 Distribution Of Child Support For AFDC Recipients
160.110 Distribution Of Child Support For Former AFDC Recipients Who Continue To Receive Child Support Enforcement Services
160.120 Distribution Of Child Support Collected While The Client Was An AFDC Recipient, But Not Yet Distributed At The Time The AFDC Case Is Cancelled
160.130 Distribution Of Intercepted Income Tax Refunds and Other State Payments
160.132 Distribution of Child Support for Non-AFDC Clients
160.134 Distribution of Child Support for Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
160.140 Statement Of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section
160.150 Department Review Of Distribution Of Child Support For AFDC Recipients
160.160 Department Review Of Distribution Of Child Support For Former AFDC Recipients

AUTHORITY: Implementing and authorized by Art. X and Sections 4-1.7, 12-4.3 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at

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16 Ill. Reg. 1952, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 160.10 Child Support Enforcement Program

- a) Under Title IV-D of the Social Security Act (42 U.S.C. 651 et seq.) the Department undertakes to establish, modify, enforce and collect child and spouse support obligations from responsible relatives as defined in 89 Ill. Adm. Code 103.10. "IV-D cases" consist of:
- 1) children receiving AFDC;
 - 2) children receiving AFDC MANG;
 - 3) children receiving foster care maintenance payments under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.);
 - 4) children of applicants for AFDC, or its successor, where the caretaker or specified relative is the putative father or relative of the putative father;
 - 5) children of applicants for AFDC, or its successor, where the mother and putative father of the children born out of wedlock are living together;
 - 6) children of applicants for AFDC, or its successor, where the caretaker relative is reapplying for cash or medical assistance and was in sanctioned status for noncooperation at the time the case was previously cancelled;
 - 7) a spouse or former spouse when the former spouse/spouse lives with the child;
 - 8) former AFDC recipients following AFDC cancellation pursuant to subsection (g) of this Section;
 - 9) persons not receiving AFDC, AFDC MANG, or Foster Care Services under Title IV-E upon application to the Department for such services;
 - 10) persons receiving AFDC/MANG that previously received AFDC cash assistance; and
 - 11) persons similarly situated to subsections (1) through (10) above and receiving Title IV-D support services in other states.
- b) Title IV-D is implemented by the Department through its Division of Child Support Enforcement.

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- c) The Division of Child Support Enforcement has sole responsibility for:
- 1) identifying and locating the absent parent;
 - 2) establishing the parentage of a child born out of wedlock;
 - 3) establishing support obligations;
 - 4) enforcing and collecting support;
 - 5) receiving and distributing support payments;
 - 6) maintaining accurate records of location and support activities; and
 - 7) advising the local office of circumstances which may affect the family's eligibility for AFDC or AFDC MANG (for example, the father is living in the home, or a child no longer lives in the home, etc.).
- d) For Title IV-D children, the Department determines financial ability and establishes the support obligation of the absent parent through order of the court or through administrative process in accordance with Section 160.60.
- e) The Department shall explain to each AFDC applicant or recipient his or her responsibility to cooperate with the department in obtaining support from absent parents and enforcing support obligations and the consequence of noncooperation.
- f) Whenever a family ceases to receive AFDC cash assistance, IV-E foster care or medical assistance, the Department shall notify the family that Title IV-D services will be continued unless the family advises the Department that it does not wish to receive Title IV-D services. Additionally, the notice shall advise that no application or application fee is required. Finally, the notice shall also include a description of the Title IV-D services available from the Department and information on the Department's cost recovery (for example, filing fees) and distribution policies. (45 CFR 302.33(a) and (d) and 303.7(d)(4) and (5) (1989))
- g) Whenever a family ceases to receive AFDC MANG assistance:
- 1) if the family previously received AFDC cash assistance, IV-D services shall be continued without the filing of a new application as explained in subsection (f) of this Section; or
 - 2) if the family did not previously receive AFDC cash assistance, IV-D services shall be continued without the filing of a new application as explained in subsection (f) of this Section.
- h) A person who applies for Title IV-D services (except location only services) or receives continuation services under subsection (f) of this Section, and who retains a private attorney to establish paternity, or establish, modify or enforce a child support obligation, shall be deemed to have requested termination of IV-D services. Upon the filing of an appearance by a private attorney representing such a person in a proceeding to establish paternity, or establish, modify or enforce a child support obligation, the Department shall cease providing Title IV-D services. The cessation of services under this subsection shall not affect the Department's ability to enforce and

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collect past-due support (including medical support) previously assigned to the State. The Department's application for Title IV-D services, and the notice required under subsection (f) of this Section shall contain a statement of the policy set forth in this subsection (h).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.71 Credit for Payments Made Directly to the Title IV-D Client

a) Where the operative court or administrative order for support requires child support payments to be made to the Department or the Clerk of the Circuit Court, the Department will credit its child support accounts receivable for payments made directly to the Title IV-D client when:

1) a court of competent jurisdiction enters an order requiring credit; or

2) the following circumstances exist:

A) the case is an intrastate case; and

B) no payments are owed to the State of Illinois under

assignment of support rights; and

C) there has been no other instance, after the effective date of this Section, in which the Department credited its child support accounts receivable for payments made by the responsible relative directly to the Title IV-D client; and

D) the Title IV-D client signs a statement specifying the payments that the client is requesting be credited to the accounts receivable; or

E) the responsible relative provides the Department with documentation (such as copies of canceled checks or money order receipts) showing that the payments for which the relative is requesting credit were made and the Title IV-D client signs a statement acknowledging receipt of the payments as child support.

(Source: Added at 20 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Numbers: Proposed Action:
100.2580 New Section

4) Statutory Authority: 35 ILCS 203 and P.A. 88-648

5) A Complete Description of the Subjects and Issues Involved: Public Act 88-648 established the Medical Care Savings Account Program. A Medical Care Savings Account is an account established in this State to pay the eligible medical expenses of an employee and his or her dependents. This rulemaking sets forth the Department's policies and procedures with respect to Medical Care Savings Accounts.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
100.2330	Amendment	6/21/96, 20 Ill. Reg. 8271
100.9710	New Section	7/19/96, 20 Ill. Reg. 9488
100.2470	Amendment	7/26/96, 20 Ill. Reg. 9840

10) Statement of Statewide Policy Objectives: This rulemaking does create a state mandate. This rulemaking does not affect any existing state mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Keith Staats
Associate Chief Counsel (Income Tax)
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses affected: Any small business that wishes to participate in the Medical Care Savings Account program as an employer or as an Account Administrator.

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: No new professional skills are required.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment(s) begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000
100.2050

Introduction
Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

100.2150 Training Expense Credit (IITA 201(j))

100.2101 Replacement Tax Investment Credit (IITA 201(e))

100.2110 Investment Credit; Enterprise Zone (IITA 201(f))

100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))

100.2130 Investment Credit; High Impact Business (IITA 201(h))

100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))

100.2160 Research and Development Credit (IITA 201(k))

100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

100.2180 Credit for Residential Real Property Taxes (IITA 208)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members

100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net

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Operating Loss in Computing Illinois Base Income
 Net Operating Losses Occurring Prior to December 31, 1986, of
 Unitary Business Groups: Treatment by Members of the Unitary
 Business Group: (IITA Section 202) - Deadline for Filing Claims
 Based on Net Operating Losses Carried Back From a Combined
 Apportionment Year

Section
 100.2250 Terms Used in Article 3 (IITA Section 301)
 100.3000 Business and Nonbusiness Income (IITA Section 301)
 100.3010 Resident (IITA Section 301)
 100.3020

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER
DECEMBER 31, 1986

Section
 100.3100 Compensation (IITA Section 302)
 100.3110 State (IITA Section 302)
 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
 100.3200 Taxability in Other State (IITA Section 303)
 100.3210 Commercial Domicile (IITA Section 303)
 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other
 than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
 100.3310 Business Income of Persons Other than Residents (IITA Section 304) -
 In General
 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) -
 Apportionment
 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) -
 Allocation
 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
 100.3350 Property Factor (IITA Section 304)
 100.3360 Payroll Factor (IITA Section 304)
 100.3370 Sales Factor (IITA Section 304)
 100.3380 Special Rules (IITA Section 304)
 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section
 304(f))
 100.3400 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set
 Aside for Charity

Time for Filing Returns: Individuals (IITA Section 505)
 Place for Filing Returns: All Taxpayers (IITA Section 505)
 Extensions of Time for Filing Returns: All Taxpayers (IITA Section
 505)
 Taxpayer's Notification to the Department of Certain Federal Changes
 Arising in Federal Consolidated Return Years, and Arising in Certain

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF
BASE INCOME

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Loss Carryback Years (IITA Section 506)

SUBPART O: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credit for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Election to File a Combined Return
100.5210 Procedure for Making the Election
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5270 Computation of Combined Income and Tax
100.5280 Definitions and Miscellaneous Provisions Relating to Combined Returns

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 701)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)

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100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)

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100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents

TABLE A Example of Unitary Business Apportionment
TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986;

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amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4559, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

- a) "Medical care savings account" or "account" means an account established in this State pursuant to a medical care savings account program to pay the eligible medical expenses of an employee and his or her dependents. An employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees.
- b) A medical care savings account program must include the following:
 - 1) The purchase by an employer of a qualified higher deductible health plan for the benefit of an employee and his or her dependents.
 - 2) The contribution on behalf of an employee into a medical care savings account by his or her employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health coverage policy, certificate, or contract for his or her employees may contribute all or part of the deductible of the plan purchased pursuant to subsection(b)(1), above. For 1994, a contribution under this Section may not exceed \$6,000 for 2 taxpayers filing a joint return, if each taxpayer has a medical

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care savings account but neither is covered by the other's health coverage, or \$3,000 in all other cases. These maximum amounts shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.

A) The Department will announce adjustments in the maximum amounts, as well as in the minimum higher deductible, by annual publication of a Notice of Public Information in the Illinois Register.

B) The Consumer Price Index (CPI) annual average for all urban consumers was 144.5 for calendar year 1993 and 148.2 for calendar year 1994. Therefore, the thresholds established under the Act were adjusted upward by 2% for 1995. Hence, for 1995, the minimum higher deductible is \$1026, the maximum higher deductible is \$3078, the maximum contribution for 2 taxpayers filing a joint return is \$6156 and the maximum contribution for all others is \$3078.

3) An account administrator to administer the medical care savings account from which payment of claims is made. Not more than 30 days after an account administrator begins to administer an account, the administrator shall notify in writing each employee on whose behalf the administrator administers an account of the date of the last business day of the administrator's business year.

C) The Medical Care Savings Account Act contains a number of definitions.

1) "Account administrator" means any of the following:

A) A national or state chartered bank, a federal or state chartered savings and loan association, a federal or state chartered savings bank, or a federal or state chartered credit union.

B) A trust company authorized to act as a fiduciary.

C) An insurance company authorized to do business in this State under the Illinois Insurance Code or a health maintenance organization authorized to do business in this State under the Health Maintenance Organization Act.

D) A dealer, salesperson, or investment adviser registered under the Illinois Securities Law of 1953.

E) An administrator as defined in Section 511.101 of the Illinois Insurance Code who is licensed under Article XXXI 1/4 of that Code.

F) A certified public accountant registered under the Illinois Public Accounting Act.

G) An attorney licensed to practice in this State.

H) An employer, if the employer has a self-insured health plan under the Federal Employee Retirement Income Security Act of 1974 (ERISA).

I) An employer that participates in the medical care savings

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account program.

2) "Deductible" means the total deductible for an employee and all the dependents of that employee for a calendar year.

3) "Dependent" means the spouse of the employee or a child of the employee if the child is any of the following:

A) under 19 years of age, or under 23 years of age and enrolled as a full-time student at an accredited college or university;

B) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for his or her health, guidance, or well-being and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, or

C) mentally or physically incapacitated to the extent that he or she is not self-sufficient.

4) "Domicile" means a place where an individual has his or her true, fixed, and permanent home and principal establishment, to which, whenever absent, he or she intends to return. Domicile continues until another permanent home or principal establishment is established.

5) "Eligible medical expense" means an expense paid by the taxpayer for medical care described in Section 213(d) of the Internal Revenue Code.

6) "Employee" means the individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. Employee includes a self-employed individual.

7) "Higher deductible" means a deductible of not less than \$1,000 and not more than \$3,000 for 1994. This minimum and maximum shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.

8) "Qualified higher deductible health plan" means a health coverage policy, certificate, or contract that provides for payments for covered benefits that exceed the higher deductible and that is purchased by an employer for the benefit of an employee for whom the employer makes deposits into a medical care savings account.

d) Before making any contribution to an account, an employer that offers a medical care savings account program shall inform all its employees in writing of the federal tax status of contributions made. The contributions made pursuant to the Medical Care Savings Account Act will be taxable federally unless and to the extent the medical care savings account qualifies as a tax-favored medical savings account under the terms of Federal P.R. 104-193.

e) Use of Account Monies

1) The account administrator shall utilize the moneys held in a medical care savings account solely for the purpose of paying the medical expenses of the employee or his or her dependents or to

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purchase a health coverage policy, certificate, or contract if the employee does not otherwise have health insurance coverage. Money held in a medical care savings account may not be used to cover medical expenses of the employee or his or her dependents that are otherwise covered, including but not limited to medical expenses covered pursuant to an automobile insurance policy, worker's compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract.

2) The employee may submit documentation of medical expenses paid by the employee in the tax year to the account administrator, and the account administrator shall reimburse the employee from the employee's account for eligible medical expenses.

3) If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceed the amount in the employee's medical care savings account when the expense is incurred if the employee agrees to repay the advance from future installments or when he or she ceases to be an employee of the employer.

4) Upon the death of the employee, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee.

f) Illinois Income Tax Consequences

1) Except as provided in subsection (e)(2) below, principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee for eligible medical expenses are exempt from taxation under the Illinois Income Tax Act and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee for the taxable year.

2) Notwithstanding subsection (e)(3), and subject to subsection (e)(4), an employee may withdraw money from his or her medical care savings account for any purpose other than a purpose described in subsection (e)(1) above only on the last business day of the account administrator's business year. Money withdrawn pursuant to this subsection (f)(2) shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawals.

3) If the employee withdraws money for any purpose other than a purpose described in subsection (e)(1) above at any other time, all of the following apply:

A) The amount of the withdrawal shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawal.

B) The administrator shall withhold and on behalf of the

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employee shall pay a penalty to the Department equal to 10% of the amount of the withdrawal. The administrator must remit the penalty to the Department along with a copy of Form IR-601 "Medical Care Savings Account Penalty Payment." Interest earned on the account during the taxable year in which a withdrawal under this subsection is made shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee.

4) The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under Title 11 of the United States Code, 11 U.S.C. 101 to 1330, by an employee or person for whose benefit the account was established is not considered a withdrawal for purposes of this Section. The amount of a disbursement is not subject to taxation under the Illinois Income Tax Act, and subsection (f)(3) above does not apply.

5) In the event that all of the following occur:

A) an employee is no longer employed by an employer that participates in a medical care savings account program, the employee, not more than 60 days after his or her final day of employment, transfers the account to a new account administrator or requests in writing to the former employer's account administrator that the account remain with that administrator, and

C) that account administrator agrees to retain the account, then the money in the medical care savings account may be utilized for the benefit of the employee or his or her dependents subject to this Act, remains exempt from taxation, and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee or his or her dependents for the taxable year. Not more than 30 days after the expiration of the 60 days, if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee, at the employee's last known address, for an amount equal to the amount in the account on that day, and that amount is subject to taxation pursuant to subsection (f)(3)(A) above, and shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee but is not subject to the penalty under subsection (f)(3)(B). If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer his or her medical care savings account to that new employer's account administrator.

(Source: Added at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Small Employer Carrier Actuarial Certification and Documentation Requirements
- 2) Code Citation: 50 Ill. Adm. Code 5100
- 3) Section Number:
5100.10 Adopted Action:
5100.20 Adopted
5100.30 Adopted
5100.40 Adopted
5100.50 Adopted
- 4) Statutory Authority: Implementing and authorized by the Small Employer Rating, Renewability and Portability Health Insurance Act (215 ILCS 95/1 et seq.).
- 5) Effective Date of Rule: September 9, 1996
- 6) Does this Rule contain an automatic repeal date? No
- 7) Does this Rule contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: September 9, 1996
- 9) Notice of Proposal Published in Illinois Register: March 1, 1996, 20 Ill. Reg. 3688
- 10) Has JCAR issued a Statement of Objections to this Rule? No
- 11) Difference(s) between proposal and final version:
 - a) Section 5100.30 Definitions - "Other Individual Acceptable to the Director", in the second paragraph, "The individual must demonstrate appropriate experience and educational background." has been added as the first sentence. Within the same paragraph "The determination of qualification will be based upon a demonstration that the individual has the appropriate experience and educational background." has been deleted.
 - b) Section 5100.50(b)(4) - In the last sentence, change "Standards" to "Standard".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were reached between the Department and JCAR.
- 13) Will this Rule replace an emergency rule currently in effect? No

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: This new rule will set standards for the filing and contents of a small employer carrier actuarial certification.
- 16) Information and questions regarding this adopted Rule shall be directed to:

Gerald Lucht	Lynn Shanklin
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
Springfield, IL 62767-0001	Springfield, IL 62767-0001
(217) 783-0260	(217) 782-1796

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER hhh: SMALL EMPLOYER RATING, RENEWABILITY AND
PORTABILITY HEALTH INSURANCE

PART 5100
SMALL EMPLOYER CARRIER ACTUARIAL CERTIFICATION AND
DOCUMENTATION REQUIREMENTS

Section	Purpose
5100.10	Applicability and Scope
5100.20	Definitions
5100.30	Small Employer Carrier Rating and Underwriting Records
5100.40	Actuarial Certification and Format
5100.50	

AUTHORITY: Implementing and authorized by the Small Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95/1 et seq.].

SOURCE: Adopted at 20 Ill. Reg. 12588, effective 5/1/99.

Section 5100.10 Purpose

The purpose of this Part is to set standards for the filing and contents of a small employer carrier actuarial certification.

Section 5100.20 Applicability and Scope

This Part (A.)...shall apply to each health benefit plan for a small employer that is delivered, issued for delivery, renewed or continued in this State after January 1, 1994. For purposes of this Section, the date a plan is continued shall be the first rating period which commences after January 1, 1994.

The Small Employer Rating, Renewability and Portability Health Insurance Act (the Act) shall apply to any such health benefit plan which provides coverage to employees of a small employer, except that the Act shall not apply to individual health insurance policies.

(B.)(1) Except as provided in paragraph (2) for the purposes of this Act, carriers that are affiliated companies or that are eligible to file a consolidated (sic) tax return shall be treated as one carrier and any restrictions or limitations imposed by this Act shall apply as if all health benefit plans delivered or issued for delivery to small employers in this State by such affiliated carriers were issued by one carrier.

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(2) An affiliated carrier that is a health maintenance organization having a certificate of authority under Section 2-1 of the Health Maintenance Organization Act [215 ILCS 125/2-1] may be considered to be a separate carrier for the purposes of this Act. [215 ILCS 95/13]

Section 5100.30 Definitions

"Actuarial Certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Director.... [215 ILCS 95/10] pursuant to Section 5100.40(c) of this Part.

"Director" means the Director of Insurance. [215 ILCS 95/10]

"Health benefit plan" or plan shall mean any hospital or medical expense-incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. Health benefit plan shall not include individual, accident-only, credit, dental, vision, medicare supplement, hospital indemnity, long term care or disability income insurance, workers' compensation or similar insurance, or automobile medical payment insurance. [215 ILCS 95/10]

Other Individual Acceptable to the Director means an individual who is not a member of the American Academy of Actuaries but who has met the following requirements.

The individual must demonstrate appropriate experience and educational background. The small employer carrier who wishes to utilize the services of an individual who is not a member of the American Academy of Actuaries must, in advance of the performance of the task, obtain approval from the Director. An actuarial certification completed by a person other than a member of the American Academy of Actuaries who has not been pre-approved by the Director will not be accepted.

Review of Appropriate Records means a review conducted in accordance with the Actuarial Standards Board document entitled Actuarial Standard of Practice No. 23 which addresses the Data Quality issue and gives guidance on what level of review would be required in a review of appropriate records.

"Small employer" means any person, firm, corporation, partnership, or association that is actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar quarter, employed at least three (3) but no more than twenty-five (25) eligible employees, the majority of whom were employed in this State. In determining the number of eligible employees, companies that are

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affiliated companies, or that are eligible to file a combined tax return for purposes of State taxation, shall be considered one employer. [215 ILCS 95/10]

"Small employer carrier" means a carrier that offers health benefit plans covering eligible employees of one or more small employers in this State. [215 ILCS 95/10]

Section 5100.40 Small Employer Carrier Rating and Underwriting Records

Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrates that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles. [215 ILCS 95/45] The Director requires that the small employer carrier maintain and/or authorize access to these records for a period of three years from the date of certification. This shall include any workpapers prepared in support of the actuarial certification.

Section 5100.50 Actuarial Certification and Format

a) An actuarial memorandum must document the demonstrations used by the actuary to support the opinion provided in the actuarial certification. The Actuarial Standards Board document entitled Actuarial Standard of Practice No. 23 addresses the Data Quality issue and gives guidance on what level of documentation must be maintained.

b) An actuarial certification must contain the following:

- 1) The full legal name of the small employer carrier for which this certification is being submitted.
- 2) A statement as to whether the undersigned actuary is a member of the American Academy of Actuaries, and if not a member, they must indicate when they were pre-approved by the Director pursuant to Section 5100.30 of this Part.
- 3) The period for which the certification is being made.
- 4) The actuary may rely on others for data, but may not rely on another actuarial opinion. The nature and extent of reliance must be disclosed in the actuarial certification. The extent of reliance is subject to the Actuarial Standard of Practice No. 23 on Data Quality.
- 5) The actuarial certification must contain a statement that the small employer carrier's rates either are or are not in compliance with Section 30 of the Small Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95/30].

If the actuary determines that the small employer carrier's rates or rating factors do not comply with statutory requirements, the following statement must be included with a detailed description

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of the areas in which the rates were not in compliance, and the small employer carrier's plan to correct the areas of non-compliance:

In the course of my review of the compliance of the rates and rating methodology of (small employer carrier name), I discovered that (small employer carrier's) rates (or rating factors) did not comply with the statutory requirements of Illinois in the following ways: (Include the explanation and efforts to correct.)

- 6) Health benefit plans delivered or issued for delivery prior to January 1, 1994 which meet the requirements of Section 30(A)(5) of the Act [215 ILCS 95/30(A)(5)] but do not meet the requirements of Section 30(A)(3) [215 ILCS 95/30(A)(3)] do not have to be reported as exceptions to Section 30 until the period beginning January 1, 1997 through January 1, 1998 to be certified March 15, 1998.

- 7) An actuarial certification must be submitted in the following format:

I, (name) am an officer/employee of OR am associated with the firm of (employer name) and am a member of the American Academy of Actuaries.

(or)

I, (name) am an officer/employee of OR am associated with the firm of (employer name) and am not a member of the American Academy of Actuaries. I meet the definitional standards of the "Other Individual Acceptable to the Director" and have received the Director's prior approval on (date) pursuant to 50 Ill. Adm. Code 5100.30.

I am completing the small employer carrier actuarial certification for (name of small group carrier). I am familiar with the applicable statutory provisions of 215 ILCS 95 and requirements of 50 Ill. Adm. Code 5100.

This certification is for the period from through

I relied on listings (summaries, rate manuals, etc.) of relevant data prepared by (name and title of company officer responsible for preparing the underlying records).

Based upon my review, I find that the small employer carrier (is/is not) in compliance with Section 30 of the Small Employer Rating, Renewability and Portability Health Insurance Act [215 ILCS 95/30].

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(If not in compliance, include required explanation and detail of efforts to correct as required by Section 5100.50(b)(5) of this Part.)

In other respects, my examination included a review of the actuarial methods in order to assure that the rating methods of the small employer carrier were actuarially sound.

Actuarial methods, considerations and analysis used in forming my opinion conform to the appropriate Standards of Practice, which standards form the basis of the statement of opinion.

Actuary Name (typewritten)

Signature of Actuary

Date

- 8) The actuarial certification required by this Part must be submitted to:

Illinois Department of Insurance
Life Actuarial Section
320 West Washington Street
Springfield, Illinois 62767-0001

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology

- 2) Code Citation: 32 Ill. Adm. Code 401

- 3) Section Number: Adopted Action:
401.30 Amendment
401.40 Amendment
401.120 Amendment

- 4) Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 (420 ILCS 40/5, 6, 7 and 36).

- 5) Effective Date of Rules: September 6, 1996

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) Date filed in Agency's Principal Office: September 4, 1996

- 9) Notice of Proposal Published in the Illinois Register: March 1, 1996 (20 Ill. Reg. 3772)

- 10) Has JCAR issued a Statement of Objections to these Rules? No

- 11) Differences between proposal and final version:

- a) In Section 401.30, line 102, by changing "and" to "and".
- b) In Section 401.30, line 133, by deleting the phrase "as" and by adding immediately after the word "orders," the following phrase "pursuant to the provisions and procedures"; and by deleting the words "In cases".
- c) In Section 401.30, by deleting lines 134, 135 and 136.
- d) In Section 401.120, line 140, by changing the word "shall" to "may".
- e) In Section 401.120, line 176, by changing "a properly assessed civil penalty," to "a civil penalty properly assessed by the Department."
- f) In Section 401.120, line 177, by changing the phrase "above grounds" to "above grounds in subsection (a) of this Section".
- g) In Section 401.120, line 200, by deleting the word "or" after the word "safety" and inserting a comma.

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NOTICE OF ADOPTED AMENDMENT(S)

TITLE 32: ENERGY
CHAPTER 11: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401

ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

Section	Policy and Scope
401.10	Definitions
401.20	Exemptions
401.30	Application for Accreditation
401.40	Categories of Accreditation
401.50	Examination Requirements
401.60	Acceptable Examinations
401.70	Approved Program
401.80	Practice Requirement - Initial Licensure (Repealed)
401.90	Initial Issuance of Accreditation
401.100	Duration of Accreditation
401.110	Suspension and Revocation of Accreditation
401.120	Fees
401.130	Requirements for Renewal of Accreditation
401.140	Reciprocity
401.150	Additional Requirements for Radiographers Performing Mammography
401.160	Civil Penalties
401.170	Limited Diagnostic Radiography Procedures by Type of Limited Accreditation
APPENDIX A	Minimum Training Requirements for Radiographers Performing Mammography
APPENDIX B	Example Topics Directly Related to Radiologic Sciences
APPENDIX C	Minimum Training Requirements for Radiographers Performing Mammography

AUTHORITY: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086, effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective April 29, 1991; amended 16 Ill. Reg. 9115, effective June 2, 1992; amended at 20 Ill. Reg. 12595, effective SEP 06 1996.

Section 401.30 Exemptions

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h) In Section 401.120, line 201, by adding the phrase "or frequent child support arrearages" after the word "year".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This Amendment will clear up an inconsistency between this rule and the provisions of the Radiation Protection Act of 1990 regarding the degree of supervision needed for students in an approved training program. Section 401.30(c)(1) has been amended to reflect that direct supervision is required. This Part will also implement a legislative mandate that added a new Section O to the Department's enabling statute relating to the suspension or revocation of any accreditation, certification or registration issued by the Department. Section 401.40 has been amended by adding a new provision that accreditation shall not be issued or renewed to any individual who has become delinquent in either the payment of child support orders or the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission. In addition, Section 401.120 has been amended to add causes for suspension and revocation in the event an individual fails to repay an educational loan, fails to meet child support orders and fails to pay a properly assessed civil penalty.

16) Information and questions regarding these amendments shall be directed to:

Valerie Puccini
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9881 (voice)
(217) 782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:

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- a) Nothing in the Act or this Part shall be construed to limit or affect in any respect, the practice of persons properly licensed under other statutes or regulations with respect to their professions.
- b) The department shall, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of this Part as it determines are authorized by law and will not result in a hazard to public health and safety.

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- (Source: Amended at 20 Ill. Reg. **12000**, effective **SEP 06 1996**)
- on 401.40 Application for Accreditation**
- a) Any person applying to the Department for initial accreditation or renewal of accreditation shall: **must**
- 1) submit a complete and legible application form; **must**
 - 2) pay the appropriate application fee in accordance with Section 401.130 of this Part; **and must**
 - 3) provide evidence that he/she has met the requirements for the given category and status of accreditation which is sought.

Section 401.40 Application for Accreditation

Section 401.120 Suspension and Revocation of Accreditation

- a) The Department may ~~shall~~ act to suspend or revoke an individual's accreditation for any one or a combination of the following causes:
- 1) Knowingly causing a material misstatement or misrepresentation to

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be made in the application for initial accreditation or renewal of accreditation if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for accreditation under this Part;

- 2) Wilfully evading the statute or regulations pertaining to accreditation, or wilfully aiding another person in evading such statute or regulations pertaining to accreditation;
- 3) Having been convicted of a crime which is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;
- 4) Exhibiting significant or repeated incompetence in the performance of professional duties;
- 5) Having a physical or mental illness or disability which results in the individual's inability to perform professional duties with reasonable judgment, skill and safety;
- 6) Continuing to practice medical radiation technology when knowingly having a potentially serious disease, such as those listed in 77 Ill. Adm. Code 690.100, which could be transmitted to patients;
- 7) Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of professional duties;
- 8) Having had a similar credential by another state or the District of Columbia suspended or revoked if the grounds for that suspension or revocation are the same or equivalent to one or more grounds for suspension or revocation as set forth herein;
- 9) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71;
- 10) Failing to meet child support orders as provided in 5 ILCS 100/10-65;
- 11) Failing to pay a civil penalty properly assessed by the Department.

b) If, based upon any of the above grounds in subsection (a) of this Section, the Department determines that action to suspend or revoke accreditation is warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200.60. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's accreditation unless the Department finds that an immediate suspension of accreditation is required to protect against immediate danger to the public health or safety (see 420 ILCS 40/38) (Rev. Stat. 1985-Ch. 111-1/2--par. 222), in which case the Department shall suspend an individual's accreditation pending a hearing.

c) If the Department finds that removal of accreditation is warranted, the usual action shall be a suspension of accreditation for up to one year. The term of suspension may be reduced by the Director, upon the

DEPARTMENT OF NUCLEAR SAFETY

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recommendation of the hearing officer, if the hearing officer finds, based upon evidence presented to him/her at a hearing, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to public health or safety, or deficiencies that cannot be cured within one year or frequent child support arrearages, the Department shall revoke the individual's accreditation.

d) When an individual's accreditation is suspended or revoked, the individual shall surrender his/her credential to the Department until the termination of the suspension period or until reissuance of the accreditation.

e) An individual whose accreditation has been revoked may seek reinstatement of accreditation by filing a petition for reinstatement with the Department which complies with the requirements of 32 Ill. Adm. Code 200-40. Such petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the accreditation should be reinstated due to rehabilitation or other just cause.

(Source: Amended at 20 Ill. Reg. 12595, effective SEP 06 1996)

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NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Certification of Individuals to Perform Industrial Radiography
- 2) Code Citation: 32 Ill. Adm. Code 405
- 3) Section Number: Adopted Action:
405.30 Amendment
405.140 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 7a of the Radiation Protection Act of 1990 (420 ILCS 40/7a).
- 5) Effective Date of Rules: September 6, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: September 4, 1996
- 9) Notice of Proposal Published in the Illinois Register: March 1, 1996 (20 Ill. Reg. 3779)
- 10) Has JCAR issued a Statement of Objections to these Rules? No
- 11) Differences between proposal and final version:
- In Section 405.30, line 56, by deleting the phrase "as" and by adding immediately after the word "orders," the following phrase "pursuant to the provisions and procedures"; and by deleting the words "in cases".
 - In Section 405.30, by deleting lines 57, 58 and 59.
 - In Section 405.140, line 105, by changing "a properly assessed civil penalty." to "a civil penalty properly assessed by the Department."
 - In Section 405.140, line 106, by changing the phrase "above grounds" to "above grounds in subsection (a) of this Section".
 - In Section 405.140, line 128, by deleting the word "or" after the word "safety" and inserting a comma.
 - In Section 405.140, line 129, by adding the phrase "or frequent child support arrearages" after the word "year".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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- 13) Will these rules replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This Amendment will implement a legislative mandate that added a new Section 0 to the Department's enabling statute relating to the suspension or revocation of any accreditation, certification or registration issued by the Department. Section 405.30 has been amended by adding a new provision that certification shall not be issued or renewed to any individual who has become delinquent in either the payment of child support orders or the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission. Section 405.140 has been amended to add causes for suspension and revocation in the event an individual fails to repay an educational loan, fails to meet child support orders and fails to pay a properly assessed civil penalty.

- 16) Information and questions regarding these amendments shall be directed to:

Valerie Puccini
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9881 (voice)
(217) 782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 405

CERTIFICATION OF INDIVIDUALS TO PERFORM INDUSTRIAL RADIOGRAPHY

Section	Purpose and Scope
405.10	Definitions
405.20	Application for Certification
405.30	Categories of Certification
405.40	Examination Requirements
405.50	Examinations
405.60	Approved Training Program
405.70	Experience Requirements for Certification
405.80	Requirements for Issuance of Certification
405.90	Duration of Certification
405.100	Fees
405.110	Reciprocity
405.120	Requirements for Renewal of Certification
405.130	Suspension and Revocation of Certification
405.140	Civil Penalties
405.150	Minimum Training Requirements for Industrial Radiography
APPENDIX A	Applicable to Radioactive Materials and Radiation Machines

AUTHORITY: Implementing and authorized by Section 7a of the Radiation Protection Act of 1990 (420 ILCS 40/7a).

SOURCE: Adopted at 18 Ill. Reg. 10721, effective June 23, 1994; amended at 20 Ill. Reg. 12602, effective SEP 06 1996.

Section 405.30 Application for Certification

- a) Any individual applying to the Department for certification to perform industrial radiography shall:
- 1) Submit a complete and legible application on a form prescribed by the Department;
 - 2) Pay the appropriate non-refundable application fee in accordance with Section 405.110 of this Part;
 - 3) Meet the examination requirements set forth in Section 405.50 of this Part or satisfy the requirements for certification based on reciprocity as set forth in Section 405.120 of this Part; and
 - 4) Provide evidence that the requirements for the given category and class for which certification is sought have been met.
- b) Any individual who seeks Provisional Certification as an industrial radiographer shall submit an application to the Department no later than September 1, 1994.

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- c) The appropriate fee shall accompany the application when filing with the Department. An application shall be deemed filed on the date that it is received by the Department or on the date that it is postmarked by the United States Postal Service.
- d) The Department shall refuse to issue or renew certification to any individual if the Department has evidence that the applicant is delinquent in the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission, as set forth in 20 ILCS 2005/71.
- e) The Department shall refuse to issue or renew certification to any individual, after an opportunity for a hearing, if the Department has evidence that the applicant is delinquent in the payment of child support orders, pursuant to the provisions and procedures set forth in 5 ILCS 100/10-65.

(Source: Amended at 20 Ill. Reg. 12602, effective SEP 06 1996)

Section 405.140 Suspension and Revocation of Certification

- a) The Department may shall act to suspend or revoke an individual's certification for any one or a combination of the following causes:
- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for initial certification or renewal of certification if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for certification pursuant to this Part;
 - 2) Knowingly falsifying records of employees when such falsification would impair the Department's ability to assess and evaluate the applicant's qualifications for certification pursuant to this Part;
 - 3) Willfully evading the statute or regulations pertaining to certification, or willfully aiding another person in evading such statute or regulations pertaining to certification;
 - 4) Having been convicted of a crime which is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;
 - 5) Exhibiting significant or repeated incompetence in the performance of industrial radiography duties;
 - 6) Having a physical or mental illness or disability that results in the individual's inability to perform industrial radiography duties with reasonable judgment, skill and safety;
 - 7) Performing industrial radiography in such a manner that requirements of 32 Ill. Adm. Code 350 are violated resulting in a threat to health and safety of the individual, other workers or

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the public;

- 8) Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of duties;
- 9) Having had a similar certification suspended or revoked if the grounds for that suspension or revocation are the same or equivalent to one or more grounds for suspension or revocation as set forth herein; and
- 10) Failure to maintain the out-of-state certification upon which certification by reciprocity was issued;
- 11) Failure to repay educational loans guaranteed by the Illinois Student Assistance Commission, as provided in 20 ILCS 2005/71;
- 12) Failure to meet child support orders, as provided in 5 ILCS 100/10-65; and
- 13) Failure to pay a civil penalty properly assessed by the Department.

b) If, based upon any of the above grounds in subsection (a) of this Section, the Department determines that action to suspend or revoke certification is warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200.60. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's certification unless the Department finds that an immediate suspension of certification is required to protect against immediate danger to the public health or safety [420 ILCS 40/38] (Section-38-of-the-Act), in which case the Department shall suspend an individual's certification pending a hearing.

c) If the Department finds that removal of certification is warranted, the usual action shall be a suspension of certification for up to one year. The term of suspension may be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds, based upon evidence presented to him/her during a hearing, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to occupational or public health or safety, or deficiencies that cannot be cured within one year or frequent child support arrearages, the Department shall revoke the individual's certification.

d) When an individual's certification is suspended or revoked, the individual shall surrender his/her certification document to the Department until the termination of the suspension period or until reissuance of the certification.

e) An individual whose certification has been revoked may seek reinstatement of certification by filing with the Department a petition for reinstatement which complies with the requirements of 32 Ill. Adm. Code 200.40. Such petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall

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bear the burden of proof of establishing that the certification should be reinstated due to rehabilitation or other just cause.

(Source: Amended at 20 Ill. Reg. 12602, effective SEP 06 1996)

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- 1) In Section 420.70, line 139, by adding the phrase "or frequent child support arranges" after the word "year".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This Amendment will implement a legislative mandate that added a new Section 0 to the Department's enabling statute relating to the suspension or revocation of any accreditation, certification or registration issued by the Department. Section 420.50 has been amended by adding a new provision that registration shall not be issued or renewed to any individual who has become delinquent in either the payment of child support orders or the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission. Section 420.70 has been amended to add causes for suspension and revocation in the event an individual fails to repay an education loan or fails to meet child support orders.
- 16) Information and questions regarding these amendments shall be directed to:

Valerie Puccini
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9881 (voice)
(217) 782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Registration of Radon Detection and Mitigation Services
- 2) Code Citation: 32 Ill. Adm. Code 420
- 3) Section Number: Adopted Action:
420.50 Amendment
420.70 Amendment
- 4) Statutory Authority: Implementing and authorized by the Radon Testing Act [420 ILCS 45].
- 5) Effective Date of Rules: September 6, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: September 4, 1996
- 9) Notice of Proposal Published in the Illinois Register: March 1, 1996 (20 Ill. Reg. 3785)
- 10) Has JCAR issued a Statement of Objections to these Rules? No
- 11) Differences between proposal and final version:
 - a) In Section 420.50, line 47, by striking "1)".
 - b) In Section 420.50, line 50, by striking "2)".
 - c) In Section 420.50, line 55, by striking "3)".
 - d) In Section 420.50, line 86, by deleting the phrase "as" and by adding immediately after the word "orders" the following phrase "pursuant to the provisions and procedures"; and by deleting the words "in cases".
 - e) In Section 420.50, by deleting lines 87, 88 and 89.
 - f) In Section 420.70, line 97, by changing the word "shall" to the word "may".
 - g) In Section 420.70, line 122, by changing the phrase "above grounds" to "above grounds in subsection (a) of this Section".
 - h) In Section 420.70, line 138, by deleting the word "or" after the word "safety" and inserting a comma.

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TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER B: RADIATION PROTECTION

PART 420

REGISTRATION OF RADON DETECTION AND MITIGATION SERVICES

Section	
420.10	Policy and Scope
420.20	Definitions
420.30	Exemptions
420.40	Application for Registration
420.50	Issuance of Registration Certificates
420.60	Fees
420.70	Suspension and Revocation of Registration
420.80	Civil Penalties

AUTHORITY: Implementing and authorized by the Radon Testing Act [420 ILCS 45].

SOURCE: Adopted **12-8-88** 11. Reg. 19308, effective November 26, 1990; amended at 20 Ill. Reg. **12-8-88**, effective SEP 06 1996.

Section 420.50 Issuance of Registration

- a) Registration
- 1) Except as provided in subsection (b) of this Section, the Department shall register and shall issue a Certificate of Registration to:
 - A) Any individual who has at least 4 years of radiological safety, environment sampling, or industrial hygiene experience.
 - B) Any individual who has an Associate of Arts degree in a physical or biological science and 2 years of radiological safety, environmental sampling, or industrial hygiene experience.
 - C) Any individual who has a Baccalaureate degree in a physical or biological science or engineering.
 - D) Any individual who has successfully completed a course that covers the following topics:
 - i) Radon Health Effects and Health Risks;
 - ii) Radon Sources;
 - iii) Radon Entry Points and Transport Pathways;
 - iv) Screening Measurement Techniques and Devices;
 - v) Follow-up Measurement Techniques and Devices;
 - vi) Diagnostic Measurement Techniques and Devices;
 - vii) Quality Assurance;
 - viii) Worker Health and Safety; and
 - ix) Documentation.

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Agency Note: Each of the following courses covers the topics identified in subsection (a)(1)(D) of this Section above:

- 1) United States EPA Radon Contractor Proficiency Program as described in the "EPA Radon Contractor Proficiency Program," issued September 7, 1990.
- 2) United States EPA Radon Measurement Proficiency Program as described in the "National Radon Measurement Proficiency (RMP) Program, Application and Participation Manual," EPA document #52011-88-056 (December 1988).
- 3) The Illinois Department of Nuclear Safety Measurement Course.

E) Copies of the two U.S. EPA documents are available from the Department. Any person other than an individual, (e.g., a partnership, firm or company) who employs at least one individual, registered in accordance with subsection (a)(1)(A), (B), (C) and (D) of this Section above, provided that the registered individual will direct, and be responsible for all radon testing activities undertaken by the person and provided further that the registered individual will personally review and approve all test results before they are disclosed to the client.

2) The registration issued pursuant to subsection (a)(1)(A), (B), (C) and (D) of this Section shall be valid for a period of 2 years. Registration issued pursuant to subsection (a)(1)(E) of this Section shall be valid for one year.

b) The Department shall deny registration to any person if the Department has evidence that the applicant has engaged in any of the acts listed in Section 420.70(a) of this Part unless the condition listed in Section 420.70(a) of this Part no longer exists and the applicant submits documentation that he satisfies the requirements of subsection (a) of this Section above.

c) The Department shall refuse to issue or renew registration to any individual if the Department has evidence that the applicant is delinquent in the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission, as set forth in 20 ILCS 2005/71.

d) The Department shall refuse to issue or renew registration to any individual, after an opportunity for a hearing, if the Department has evidence that the applicant is delinquent in the payment of child support orders pursuant to the provisions and procedures set forth in 5 ILCS 100/10-65.

e) Registration issued pursuant to subsection (a)(1)(A), (B), (C) and

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- or frequent child support arrearages, the Department shall revoke the person's registration.
- d) When a person's registration is suspended or revoked, the person shall surrender the certificate of registration to the Department.
- e) A person whose registration has been revoked may seek reinstatement of registration by filing with the Department a petition for reinstatement that complies with the requirements of 32 Ill. Adm. Code 200-60. Such petition may be filed one year or more after the beginning of the revocation period. The person shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the registration should be reinstated due to rehabilitation.

(Source: Amended 20 Ill. Reg. 12608, effective SEP 06 1996)

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- (D) of this Section shall be renewable for 2 year periods. Registration issued pursuant to subsection (a)(1)(E) of this Section shall be renewable for 1 year periods.

(Source: Amended at 20 Ill. Reg. 12608, effective SEP 06 1996)

Section 420.70 Suspension and Revocation of Registration

- a) The Department may shall act to suspend or revoke a person's registration for any one or a combination of the following causes:
- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for registration, if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for registration under this Part, such as a misstatement or misrepresentation regarding training or experience;
 - 2) Willfully evading the statute or regulations pertaining to registration, or willfully aiding another person in evading such statute or regulations pertaining to registration;
 - 3) Having been convicted in any State of a crime which is a felony under the laws of this State or having been convicted of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust; and
 - 4) Misrepresenting the capabilities of a device for detecting and measuring radon or radon progeny or intentionally misrepresenting the results of a test to detect or measure radon or radon progeny;
 - 5) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71; and
 - 6) Failing to meet child support orders as provided in 5 ILCS 100/10-65.
- b) If, based upon any of the above grounds in subsection (a) of this Section, action to suspend or revoke registration is initiated, the Department shall notify the person and shall provide an appointment for hearing in accordance with 32 Ill. Adm. Code 200-60. An opportunity for hearing shall be provided before the Department takes action to suspend or revoke a person's registration.
- c) The usual action shall be a suspension of registration for up to one year. The term of suspension shall be reduced by the Director, upon the recommendation of the hearing officer, if the hearing officer finds, based upon evidence presented to him/her at a hearing, and the Director concurs, that the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions which posed an immediate threat to public health or safety, or deficiencies that cannot be cured within one year.

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Alternative Standards for Coal Combustion Power General or Facility Waste Landfills
- 2) Code Citation: 35 Ill. Adm. Code 816
- 3) Section Numbers: Adopted Action:
 816.500 New
 816.510 New
 816.520 New
 816.530 New
- 4) Statutory Authority: 415 ILCS 5/27
- 5) Effective Date of Rulemaking: August 15, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: August 15, 1996
- 9) Notice of Proposal Published in Illinois Register: 19 Ill. Reg. 14260, October 13, 1995
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
 1. Change "subsection (c) of Section 816.530" to "Section 816.530(c) of this Part".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The adopted rules mirror the adjusted standards granted to Conversion Systems, Inc. for its (CSI) Poz-O-Tec process and materials in dockets AS 93-4 and AS 93-5 on July 7, 1995. (In the Matter of: Adjusted Standard for Conversion Systems' Poz-O-Tec Liners and Caps, 35 Ill. Adm. Code 811 (liner), (July 7, 1995), AS 93-4 and In the Matter of: Adjusted Standard for Conversion Systems' Poz-O-Tec Monofills, 35 Ill. Adm. Code 811 (Monofill), (July 7, 1995), AS 93-5.) While the Board granted CSI the relief requested in those two dockets, the accompanying Board opinions expressed our concern that the adjusted standards impose requirements upon entities or persons who may choose to

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use the Poz-O-Tec process who were not parties to the adjusted standard proceeding. Therefore, the Board opened this docket to allow affected entities and members of the public an opportunity to consider and comment on the use of Poz-O-Tec as an alternative to Part 811 at those landfills accepting only FGD sludges and coal combustion wastes. In addition, opening this docket was intended to allow for the final adoption of rules to be codified in the Administrative Code, thereby increasing their availability to the public and allowing the Board to consider amendments or modification may be necessary at a future date through the rulemaking process.

- 16) Information and questions regarding these adopted rules shall be directed to:

Charles M. Feinen
 100 W. Randolph Street
 State of Illinois Center
 Suite 11-500
 Chicago, IL 60601
 (312) 814-3473

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address above. Please refer to the Docket number R96-1.

The full text of the Adopted Rule begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: WASTE DISPOSAL

SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 816

ALTERNATIVE STANDARDS FOR COAL COMBUSTION POWER
GENERATING FACILITIES WASTE LANDFILLS

- Section
816.500 Scope and Applicability
816.510 Poz-O-Tec Liners and Caps
816.520 Poz-O-Tec Monofills
816.530 Testing of Poz-O-Tec Liners and Caps and Poz-O-Tec Monofills

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

SOURCE: Adopted in R96-1 at 20 Ill. Reg. 12614, effective AUG 15 1996.

Section 816.500 Scope and Applicability

- a) Except as otherwise specified in this Subpart, landfills receiving solely flue gas desulfurization (FGD) sludges and coal combustion wastes produced by coal combustion power generating facilities shall be designed, constructed and operated in compliance with all applicable requirements of 35 Ill. Adm. Code 811, 812 and 815.
- b) All general provisions of 35 Ill. Adm. Code 810 apply to this Part.

Section 816.510 Poz-O-Tec Liners and Caps

Notwithstanding the liner and cap requirements set forth at 35 Ill. Adm. Code 811.306, 811.314 (solely to the extent that it may preclude Poz-O-Tec materials from being used as a landfill cap or liner) and 811.507(a)(5), FGD sludges and coal combustion waste produced by coal combustion power generating facilities may be used for liner or cap construction for the purposes of Subpart C of Part 811, provided that:

- a) These raw FGD sludges and coal combustion wastes have been processed into Poz-O-Tec materials;
- b) The permeability of the liner constructed of Poz-O-Tec material is demonstrated to be less than or equal to 1×10^{-7} cm/sec after placement and curing based upon a geometric average of the permeability testing results prior to the placement of any waste upon the liner;
- c) The Poz-O-Tec material has an unconfined compressive strength of greater than or equal to 150 psi based upon an arithmetic average of the strength testing results obtained in accordance with Section 816.530(c) of this Part;

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- d) The bottom liner has a minimum thickness of three feet but this thickness may be increased as necessary to make the demonstrations required by 35 Ill. Adm. Code 812 or 815;
- e) The base of the liner is constructed at least five feet above the average historical groundwater table;
- f) Only coal combustion wastes and FGD sludges produced from power generating facilities are placed into the landfill;
- g) A final cover system is installed in accordance with the requirements of 35 Ill. Adm. Code 811.314 except that the low permeability layer of the cap shall consist of Poz-O-Tec materials which are at least three feet thick;
- h) The material testing procedures specified in Section 816.530 are implemented;
- i) The landfill is designed, constructed and operated in compliance with all applicable requirements of 35 Ill. Adm. Code 811, 812 and 815;
- j) The bottom liner and low permeability layer of the cap are constructed according to a construction quality assurance program in accordance with 35 Ill. Adm. Code 811.Subpart E;
- k) An acceptable groundwater impact assessment pursuant to 35 Ill. Adm. Code 811.317(b), 812.316, 813.304, or 815.203, as appropriate for the given facility, is submitted to the Agency by the owner or operator;
- l) A test liner is constructed by the owner or operator, so that all that remains is the curing of the test liner, before construction of the actual full-scale liner of Poz-O-Tec material may commence, in accordance with 35 Ill. Adm. Code 811.507(a)(1) through (4). The test liner must be fully evaluated in accordance with Section 816.530 and the results must be provided to the Agency. If the test liner evaluation results indicate a failure of the test liner to meet any of the performance standards in this Section, and if the Agency so directs, the user must excavate and properly dispose of all Poz-O-Tec liners at the site, as well as any waste deposited in and around such liners; and
- m) Owners or operators using Poz-O-Tec materials in accordance with this Section shall comply with the Illinois Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 807, 810, and 811, to the extent those provisions are not otherwise addressed herein.

Section 816.520 Poz-O-Tec Monofills

Any monofill receiving solely FGD sludges and coal combustion wastes produced by coal combustion power generating facilities shall be exempt from the requirements of 35 Ill. Adm. Code 811.105 (solely as it relates to the placement of wastes at the lowest part of the active face), 811.307, 811.308, 811.309, 811.313 (solely as it relates to soil cover), 811.314(b)(3)(C) (solely to the extent that it may preclude Poz-O-Tec materials from being used as a landfill cap) and 811.321 (relating solely to waste placement), provided that:

- a) The FGD sludges and coal combustion wastes have been processed into

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Poz-O-Tec materials;

- b) The permeability of the liner constructed of Poz-O-Tec material is demonstrated to be less than or equal to 1×10^{-7} cm/sec after placement and curing based upon a geometric average of those cylinders tested for permeability which were formed from a single sample in accordance with Section 816.530(b);
- c) The Poz-O-Tec material has an unconfined compressive strength of greater than or equal to 150 psi using an arithmetic average of the strength testing results obtained in accordance with Section 816.530;
- d) The base of the monofill is constructed at least five feet above the average historical groundwater table;
- e) A monofill liner and low permeability cap is constructed from the Poz-O-Tec materials as described in Section 816.510;
- f) A drainage layer is constructed atop the monofill liner which has a permeability greater than or equal to 1×10^{-3} cm/sec which extends over the entire liner system of the monofill;
- g) The material is placed in such a manner that it will form a monolithic block through placement of the material in one to two foot lifts, which are compacted, rolled to smooth and graded and sloped such that any rainfall rapidly runs off the upper surface without puddling;
- h) At all times a berm is maintained around three sides of the landfill mass and the grading is such that the run-off is directed toward the open side where it is collected for reuse or treated (if necessary) and discharged pursuant to an NPDES permit;
- i) The material testing procedures specified in Section 816.530 are implemented;
- j) Construction of the full scale monofill may commence immediately upon completion of the test pad;
- k) An acceptable groundwater impact assessment pursuant to 35 Ill. Adm. Code 811.371(b), 812.316, 813.304, or 815.203, as appropriate for the given facility, is prepared; and
- l) Owners or operators using the Poz-O-Tec materials in accordance with this Section shall comply with the Illinois Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 811, to the extent those provisions are not otherwise addressed herein.

Section 816.530 Testing of Poz-O-Tec Liners and Caps and Poz-O-Tec Monofills

The owner or operator shall implement the following material testing procedures for testing Poz-O-Tec liners and caps and Poz-O-Tec Monofills:

- a) Creation and Sampling of Test Pad
 - 1) The owner or operator shall construct a test pad in accordance with 35 Ill. Adm. Code 811.507(a), unless such construction is waived by the Agency pursuant to subsection (b) of that Section;
 - 2) The test pad shall be allowed to cure for 56 days at 73° Fahrenheit (or equivalent cure);
 - 3) After curing, fifty samples shall be taken using a 4 inch diameter coring bit; and

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- 4) The specimens shall be trimmed to proctor cylinder size utilizing an abrasive blade masonry saw and tested for unconfined compressive strength and coefficient of permeability as described in subsection (c) below. Of the specimens taken from the pad, 20 shall be analyzed for their coefficient of permeability and 30 shall be analyzed for their unconfined compressive strength.
- b) Collection of Production Samples

The owner or operator shall collect samples from the production of Poz-O-Tec in the following manner:

 - 1) Utilizing a large scoop, five gallon buckets of freshly produced material shall be collected at uniform intervals during construction of the test pad and shipped to a laboratory for analysis.
 - 2) Five proctor cylinder specimens shall be prepared from each bucket of freshly produced material. Three of these five cylinders shall be tested for unconfined compressive strength and the other two shall be tested for permeability.
 - 3) Additional uncured samples shall be taken as necessary for preparation and testing to determine moisture content, lime content, the ratio of fly ash to sludge and in-place density. Testing for these parameters shall be conducted in accordance with standard test methods.
- c) Strength and Permeability Testing
 - 1) Uncured samples shall be taken to a laboratory, placed into proctor cylinders, compacted to simulate field conditions, cured in sealed containers for 56 days at 73° (or equivalent cure) and tested for coefficient of permeability and unconfined strength using the following test methods, which are incorporated by reference in 35 Ill. Adm. Code 810.104:
 - A) U.S. Army Corps of Engineers Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Test with Permeameter Cylinder.
 - B) ASTM Method D5102; Standard Method for Unconfined Compressive Strength of Cohesive Soils.
 - 2) Field samples shall be tested using the same methods as specified in subsection (c)(1) above.
- d) Data Correlation

Laboratory data and field data shall be compared to determine any statistically significant differences using standard statistical correlation methodologies.
- e) Subsequent Testing

Upon completion of field verification, as described above in (c)(2), the owner or operator of the site shall conduct quality control/quality assurance testing by taking monthly samples of freshly produced Poz-O-Tec materials and sending those samples to a laboratory where they shall be formed into proctor cylinder specimens for testing. Two of those samples shall be tested for their coefficient of permeability, three for unconfined compressive strength, and one

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each for the parameters set forth in subsection (b)(3) above. Laboratory testing for permeability and strength must be conducted in accordance with the test methods referenced in subsection (c). Test results must demonstrate a coefficient of permeability of less than or equal to 1×10^{-7} cm/sec using a geometric average of the permeability testing results and an unconfined compressive strength of greater than or equal to 150 psi using an arithmetic average of the strength testing results.

DEPARTMENT OF TRANSPORTATIONS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Disadvantaged Business Enterprises
- 2) Code Citation: 92 Ill. Adm. Code 10
- 3) Section Numbers: Adopted Action:
10.40 Amend
- 4) Statutory Authority: [30 ILCS 505/5] and [605 ILCS 5/3-101, 3-103, and 4-201.1]
- 5) Effective date of rules: September 6, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in agency's principal office: September 4, 1996
- 9) Notice of proposal published in Illinois Register: May 24, 1996, 20 Ill. Reg. 7367
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is clarifying an ambiguity that exists in Section 10.40(a). The Department has been receiving inquiries as to whether firms that hold other DBE/MBE certifications could be considered eligible to participate in the Department's DBE program. Although Section 10.40(a) addresses the issue, the Department, by this rulemaking, is clearly stating that only concerns and joint ventures certified by the Department are eligible to participate in the Department's DBE program.
- 16) Information and questions regarding these adopted rules shall be directed to:
Ms. Beverly R. Peters, Bureau Chief
Bureau of Small Business Enterprises
Department of Transportation

DEPARTMENT OF TRANSPORTATIONS

NOTICE OF ADOPTED AMENDMENTS

Room 319
2300 South Dirksen Parkway
Springfield, IL 62764
(217) 785-5947

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATIONS

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER a: GENERAL

PART 10

DISADVANTAGED BUSINESS ENTERPRISES

Section

Section	Purpose
10.10	Purpose
10.20	Incorporation By Reference of Federal Regulations
10.30	Definitions
10.40	Eligibility Standards
10.50	Certification
10.60	Recertification
10.70	Decertification
10.80	Challenge
10.90	Public Meetings

AUTHORITY: Implementing and authorized by Section 5 of the Illinois Purchasing Act [30 ILCS 505/5] and by Sections 3-101, 3-103, and 4-201.1 of the Illinois Highway Code [605 ILCS 5/3-101, 3-103, and 4-201.1].

SOURCE: Adopted at 11 Ill. Reg. 13645, effective August 3, 1987; amended at 12 Ill. Reg. 9717, effective May 24, 1988; amended at 13 Ill. Reg. 3962, effective March 14, 1989; emergency amendment at 16 Ill. Reg. 16407, effective October 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 17239, effective September 24, 1993; amended at 20 Ill. Reg. ~~12621~~
SEP 04 1996

Section 10.40 Eligibility Standards

- a) Only concerns and joint ventures certified by the Department are eligible to participate in the Department's DBE program.
- b) Only concerns and joint ventures certified by the Department as disadvantaged are eligible to be counted toward the goals established in contracts let by the Department.
- c) To ensure that this Part benefits only qualified applicants, the eligibility standards of 49 CFR 23 shall be used by the Department to determine whether an applicant is owned and controlled by one or more socially and economically disadvantaged individuals. The determination of eligibility for certification or recertification shall be governed by the eligibility standards. An applicant for certification or recertification shall prove that it satisfies the eligibility standards. For example, an individual applying for certification is required to submit documentation verifying ethnicity, including but not limited to, a passport, a birth certificate, tribal certificate, Bureau of Indian Affairs card, and Armed Services Discharge Papers. An applicant for certification in accordance with

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either Section 10.50(h)(1), 10.60(k)(1) or 10.70(f)(1), in addition to proving that it satisfies all eligibility standards, shall prove that it has corrected all deficiencies listed in the Notice of Denial or Decertification. These standards of eligibility must be met before an applicant can be certified. If a firm fails to meet one of the eligibility standards, no further consideration need be given to the application, and the certification shall be denied.

d) An applicant shall be certified or recertified as a DBE, in accordance with the procedures set forth in Sections 10.50 and 10.60, if the applicant meets the definition of a DBE as determined by the eligibility standards.

e) An applicant whose principal place of business is located in a state other than Illinois shall be certified by that state in accordance with its program prior to certification by the Department.

f) An applicant shall possess all necessary, valid licenses and operating authority to do business in this State prior to certification by the Department.

g) In accordance with the eligibility standards set forth in 49 CFR 23, the Department shall give consideration to the following circumstances in determining eligibility in this part:

1) Applicants which are newly formed or whose ownership or control has changed within two years prior to the application for certification shall be examined to determine if the firm meets the criteria for an independent business and that the ownership is not merely pro forma.

2) A previous or continuing employer-employee relationship between or among present owners of an applicant shall be examined to ensure that the eligible owner has the management responsibility, control and capability provided for in the eligibility standards.

3) Any relationship between an applicant and a business, concern, firm or individual which is not eligible for certification shall be examined to determine if the relationship conflicts with the ownership and control requirements of the eligibility standards.

Such relationships include but are not limited to the following:

- A) shared employees;
- B) shared or leased equipment;
- C) shared or leased office space;
- D) shared or leased storage space or equipment storage yards;
- E) financial investment, loans or assistance;
- F) interlocking management; and
- G) management or technical services.

4) Applicants which are not operational shall not be eligible for certification pursuant to this Part. In order to be considered operational, a concern shall be established in business and shall demonstrate the actual performance, control, management and supervision of work in the categories of work for which certification is sought or the ability and the expertise to perform, control, manage and supervise the work in the categories

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of work for which certification is sought. In order to demonstrate the above described elements, an applicant without past experience may offer such evidence as: prior ownership of a business, prior work experience in the work categories sought, or prior work experience in related work categories.

(Source: Amended at 20 Ill. Reg. 12621, effective SEP 04 1996)

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1) Heading of the Part: Transporting Pupils Where Walking Constitutes A Serious Safety Hazard

2) Code Citation: 92 Ill. Adm. Code 556

3) Section Numbers: Adopted Action:

556.103 Amend

556.108 Amend

4) Statutory Authority: Implementing and authorized by Section 29-3 of the School Code [105 ILCS 5/29-3].

5) Effective date of rules: September 6, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date filed in agency's principal office: September 4, 1996

9) Notice of proposal published in Illinois Register: May 17, 1996, 20 Ill. Reg. 6660

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

In the Authority Note, "29.3" was changed to "29-3".

In Section 556.103(a) "Volume of traffic," the Department struck through the period before the parenthetical and also within the parenthetical, and added a period with underscoring at the end of the definition.

The Department deleted the semicolon after the word "width" in the definition of "Walkway".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No substantive agreements were necessary.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules: By this rulemaking, the Department is amending two Sections of Part 556. Specifically, the revision to Section 556.103(a), Walking Along a Roadway (Type I hazard), clarifies the

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definition of "Walkway" to include any public walk which is maintained in suitable walking condition throughout the school year. Additionally, revisions to Section 556.103(b)(1)(A) revise the qualifying rating for school children in 7th and 8th grades. Finally, Section 556.108(a) is revised to include provisions for a temporary safety hazard determination due to construction projects.

The Illinois State Board of Education approved the first change and requested the last two revisions.

16) Information and questions regarding these adopted rules shall be directed to:

Mr. R.W. Jones, Engineer of Operations
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 009
Springfield, IL 62764
(217) 782- 7231

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 556
RULES-ON TRANSPORTING PUPILS WHERE WALKING CONSTITUTES A
SERIOUS SAFETY HAZARD

Section	Authority
556.100	References to Rules
556.101	Purpose and Scope
556.102	Walking Along a Roadway (Type I hazard)
556.103	Walking on a Roadway (Type II hazard)
556.104	Crossing a Roadway (Type III hazard)
556.105	Crossing Railroad Tracks (Type IV hazard)
556.106	Multiple Hazards
556.107	Procedures
556.108	

AUTHORITY: Implementing and authorized by Section 29-3 of the School Code [105 ILCS 5/29-3].

SOURCE: Adopted at 4 Ill. Reg. 27, p. 426, effective June 19, 1980; amended at 5 Ill. Reg. 5915, effective May 27, 1981; codified at 7 Ill. Reg. 12894; amended at 20 Ill. Reg. **12626**, effective **SEP 06 1996**.

Section 556.103 Walking Along a Roadway (Type I hazard)

a) Definitions

"Curb" - A vertical or sloping barrier along a roadway at least 4 inches high, clearly defining the edge to motorists.

"Length of hazardous section" - The length (rounded to the nearest tenth of a mile) of the hazardous condition to which children walking along a roadway are exposed. It is limited to those sections where children walk on a shoulder within 10 feet of the roadway or behind a curb or ditch within 8 feet of the roadway. All of the children covered by the submittal must walk the complete length of the hazardous section. The length may be scaled from a map or measured by a "walking wheel," a car odometer, or other normally accepted method.

"Roadway" - The portion of a road or a street on which vehicles travel, consisting of the pavement surface, exclusive of the shoulders.

"Shoulder" - The relatively flat area between the outer edge of

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an uncurbed roadway and the point where the earth begins sloping either upward or downward, intended for the accommodation of stopped vehicles or for emergency use.

"Speed of traffic" - The posted speed, where signs are present, except that special school speed zones of 20 miles per hour shall not be considered. If no regular speed limit signs are present, the speed of traffic shall be considered to be 30 miles per hour in urban areas and 55 miles per hour in rural areas.

"Volume of traffic" - The peak hourly volume of traffic during the periods when children are going to or from school. In many cases, annual Average Daily Traffic (ADT) volumes may be available from the agency maintaining a road (the State or county highway department or municipal street department). In those cases the hourly volumes may be considered as 15 percent of the ADT in rural areas and 10 percent in urban areas. If no ADT figures are available, or if the school district prefers, it may make a one hour count (of vehicles in both directions) on a typical school day- (e.g., 7:30 a.m.-8:30 a.m., 2:30 p.m.-3:30 p.m., or, for kindergarten children, during the noon hour period-).

"Walkway" - The area on which schoolchildren normally walk along a street or highway, including a concrete sidewalk, a surfaced or unsurfaced pathway, or a roadway shoulder. The walkway, when immediately adjacent to the roadway, must be at least 2 feet in width and maintained in suitable walking condition throughout the school year; otherwise the children should be considered walking on the roadway, a Type II hazard. Walkways shall also include pathways created by school districts or other groups on public land which may be used by children to avoid a more hazardous route.

b) Determination of serious safety hazard.

1) Factors to be considered. The following factors are relevant in determining whether children walking along a roadway are endangered by a serious safety hazard: grade of pupil, location of walkway in relation to roadway, speed of traffic, volume of traffic and length of hazardous sections. To determine whether a serious safety hazard exists in a particular situation a school board shall assign points as appropriate for these factors, using the following tables (fractional points may be assigned only in accordance with the tables):

GRADE	POINTS
A) Grade of Pupil - Table 1	

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K-8 6 5
7-9 2
9-12 0.5

B) Location of Walkway - Table 2

LOCATION	DIST. BETWEEN EDGES OF ROADWAY AND WALK*	POINTS
Walkway on Shoulder (no curb present)	Less than 5 Ft. 5 Ft. - 10 Ft.	3 1
Walkway Behind Curb or Ditch	Less than 4 Ft. 4 Ft. - 8 Ft.	2 0.5

* Children walking immediately adjacent to the roadway on a walkway less than 2 feet in width are considered to be walking on the roadway.

C) Speed of Traffic - Table 3

SPEED (MPH)	POINTS
50-55	4
40-45	2
30-35	0.5

D) Volume of Traffic - Table 4

HOURLY VOLUME	POINTS	
	2-Lane	4-Lane
Greater than 1500	5	4
1200-1499	4	3
800-1199	3	2
400-799	2	1
100-399	1	0.5

E) Length of Hazardous Section - Table 5

DISTANCE (MILES)	POINTS
Greater than 1.0	2
0.8 - 1.0	1.5
0.5 - 0.7	1
0.2 - 0.4	0.5

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- 2) Judgment points. A school district may add one or two points for judgment factors peculiar to the hazards due to vehicular traffic in a specific situation. Such additions must be accompanied by adequate information to justify the special circumstances being considered.
- 3) Qualification. A serious Type I safety hazard exists if the total of the points from the tables and any judgment points equals or exceeds 12 and the situation qualifies for points from at least Tables 1, 2 and 5. The situation is not disqualified if no points are obtained from Tables 3 and 4. School districts should add judgment points if found proper even though the points from the tables alone equal or exceed 12.

4) Examples:

- A) Children going to an elementary school with pupils through 5th grade, on a walkway 4' from the roadway on a shoulder, along a 2-lane road posted 50 m.p.h., with an hourly average volume of 500 vehicles, for a distance of 1/2 mile, would have the following points:

$$5(\text{Table 1}) + 3(\text{Table 2}) + 4(\text{Table 3}) + 2(\text{Table 4}) + 1(\text{Table 5}) = 15$$

Since the point total (15) exceeds 12, the situation qualifies for children through 5th grade.

- B) Children going to an elementary school with pupils through 6th grade, on a walkway 3' from a 4-lane roadway which has curbs and is posted at 25 m.p.h., with an hourly average volume of 1300 vehicles, for a distance of 1 1/4 mile, would have the following points:

$$5(\text{Table 1}) + 2(\text{Table 2}) + 0(\text{Table 3}) + 3(\text{Table 4}) + 2(\text{Table 5}) = 12$$

Since the point total equals 12, the situation qualifies for children through 6th grade. Points from tables 1, 2 and 5 (but not 3 and 4) are required to qualify for this type (Type I) of hazardous situation.

(Source: Amended at 20 Ill. Reg. 12626, effective SEP 06 1996)

Section 556.108 Procedures

- a) Determination by local school board.

The determination by a local school board that a serious safety hazard exists shall be made in accordance with this Part, and on a form promulgated by the Illinois Department of Transportation. A separate form is required for each qualifying location not for each qualifying child. A school board's determination shall be supported by findings on those factors which were found to contribute to the hazard. Findings shall be indicated by completion of appropriate portions of the submittal form. Example: Speed of traffic (45 m.p.h.). Volume

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of traffic (900 vehicles/hour). Length of hazardous section (1.2 miles). Each submittal shall be certified true and correct by an authorized representative of the school board making the submission. Long-term construction projects or other temporary conditions may have an effect on the safety of a route used by children walking to and from school. This could include increases in the hourly volumes of traffic, a change in the length of a hazardous section or a relocation of a walkway. Consideration of these factors may result in a serious safety hazard finding for a route which would not otherwise qualify for such a finding. Where this is the case, a temporary safety hazard determination may be made on a school year by school year basis.

b) Submission of determination.

- 1) A school board shall submit the determination form and a map showing the location of the hazard and the route walked by the children to the Department for review. The submittal may include other materials, such as photographs, which the school board believes will aid in the Department's review. All parts of the submittal shall be in documentary form. A school board shall make its submission to the Department's District Office for the transportation district in which the school district is situated.
- 2) A submission is effective upon receipt by the Department's District Office.

c) Department review.

- 1) Within 30 days of submission, the Department shall approve or disapprove the school board's determination. If a submittal is incomplete, the Department shall disapprove without prejudice and inform the school district why it is considered incomplete. If a submittal is complete, it will be reviewed by the District Office. Each form will be considered as a separate submission and an incomplete submittal will not delay approval of others submitted at the same time.
- 2) The Department's review shall consist of those procedures appropriate to determine the correctness of the findings. The procedures may include the following: taking a view of the location, consulting APT maps or counting vehicles, measuring length and width of roadways, observing train movements and obtaining train speeds from railroads, regulatory authorities or law enforcement officials. The persons conducting the review shall document the procedures employed and information obtained.
- 3) If a determination is disapproved, the Department shall, in writing, inform the school board why and upon what information the Department's decision was based. A determination will not be disapproved on the ground that judgment points were not justified unless the school board gives no reason for the judgment points or unless the reason given is completely implausible or obviously not related to vehicular traffic.
- 4) A disapproved determination may not be resubmitted for Department review during the same school year in which it was originally

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submitted, unless conditions have changed. However, a determination which is disapproved because of incompleteness may be resubmitted at any time.

- d) Verification upon request from State Superintendent. The School Code provides that school districts shall annually review the conditions and certify to the State Superintendent of Education whether or not the hazardous conditions remain unchanged. The State Superintendent may request the Department to verify that conditions have not changed. Any such request by the State Superintendent shall be made to the Secretary of the Department of Transportation. The Secretary will assign a request for verification to the appropriate District Office.
- e) Reimbursement.

A school district shall maintain a copy of each approved safety busing submittal in its files for future auditing of district transportation claims. Eligibility for reimbursement of transportation costs for qualifying children is effective on the date of the approval by the Department's District Engineer. Actual reimbursement will be handled in a manner similar to other transportation reimbursement procedures and questions should be referred to the State Superintendent of Education, rather than the Department of Transportation. Questions regarding statutory provisions such as providing transportation for private schools and the prohibition of State reimbursement where adequate public transportation is available should also be addressed to the State Superintendent.

(Source: Amended at 20 Ill. Reg. 12 626, effective SEP 06 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) Section Numbers: Proposed Action:
125.340 Amended
125.380 Amended
125.390 Amended
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650/161]; the Federal Poultry Products Inspection Act (21 U.S.C.A. 454); 60 FR 44396 (1995); and 61 FR 39273 (1996).
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650/161].
- 6) Effective Date: September 5, 1996

7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal poultry products inspection program as required by the Federal Poultry Products Inspection Act and in compliance with Section 16 of the Meat and Poultry Inspection Act, changes in the federal rules relative to poultry products inspection are hereby adopted.

The Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture is amending the federal poultry products inspection regulations to "prohibit the use of the term 'fresh' on the labeling of raw poultry products whose internal temperature has ever been below 26° F". The amendment requires that "raw poultry products whose internal temperature has ever been below 26° F, but above 0° F, must be labeled with the descriptive term 'hard chilled'". The amendment also provides for the relabeling of raw poultry products that will help ensure that raw poultry products distributed to consumers are not labeled in a false or misleading manner. (Federal Register, page 44396, August 25, 1995 issue) These federal amendments became effective August 26, 1996 and are hereby incorporated into Illinois' poultry inspection regulations at Sections 125.340 and 125.380.

FSIS is also amending the federal poultry products inspection regulations to "permit the application of trisodium phosphate (TSP) on raw, chilled poultry carcasses passed for wholesomeness" to help reduce microbial populations. (Federal Register, page 39273, July 29, 1996 issue) This federal amendment became effective August 28, 1996 and is hereby incorporated into Illinois' poultry inspection regulations at Section 125.390.

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NOTICE OF PEREMPTORY AMENDMENTS

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed in Agency's Principal Office: September 5, 1996
- 10) This rule is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.
- 11) Are there any proposed amendments pending to this Part? No
- 12) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local governments.
- 13) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
P.O. Box 19281
Springfield, IL 62794-9281
(217) 785-5713
Facsimile: (217) 785-4505

The full text of the Peremptory amendment begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER I: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT

PART 125

MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR
 POULTRY INSPECTION

Section

- 125.10 Definitions
 125.20 Incorporation by Reference of Federal Rules
 125.30 Application for License; Approval
 125.40 Official Number
 125.50 Inspections; Suspension or Revocation of License
 125.60 Administrative Hearings; Appeals
 125.70 Assignment and Authority of Program Employees
 125.80 Schedule of Operations; Overtime
 125.90 Official Marks of Inspection, Devices and Certificates
 125.100 Records and Reports
 125.110 Exemptions
 125.120 Disposal of Dead Animals and Poultry
 125.130 Reportable Animal and Poultry Diseases
 125.140 Detention; Seizure; Condemnation

SUBPART B: MEAT INSPECTION

- Section
 125.150 Livestock and Meat Products Entering Official Establishments
 125.160 Equine and Equine Products
 125.170 Facilities for Inspection
 125.180 Sanitation
 125.190 Ante-Mortem Inspection
 125.200 Post-Mortem Inspection
 125.210 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
 125.220 Humane Slaughter of Animals
 125.230 Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
 125.240 Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
 125.250 Marking Products and Their Containers
 125.260 Labeling, Marking and Containers
 125.270 Entry into Official Establishment; Reinspection and Preparation of Product
 125.280 Meat Definitions and Standards of Identity or Composition
 125.290 Transportation
 125.295 Imported Products
 125.300 Special Services Relating to Meat and Other Products

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NOTICE OF PEREMPTORY AMENDMENTS

125.305 Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section

- 125.310 Application of Inspection
 125.320 Facilities for Inspection
 125.330 Sanitation
 125.340 Operating Procedures
 125.350 Ante-Mortem Inspection
 125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts
 125.370 Handling and Disposal of Condemned or Inedible Products at Official Establishments
 125.380 Labeling and Containers
 125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
 125.400 Definitions and Standards of Identity or Composition
 125.410 Transportation; Sale of Poultry or Poultry Products
- AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; peremptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 13305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; peremptory amendment at 11 Ill. Reg. 1596, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11194, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November

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3, 1987; peremptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; peremptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; peremptory amendment at 13 Ill. Reg. 2180, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; peremptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19 Ill. Reg.

16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. **12634**, effective September 5, 1996.

SUBPART C: POULTRY INSPECTION

Section 125.340 Operating Procedures

- a) The Department incorporates by reference 9 CFR 381.65 through 381.66 (1990). 60 FR 44396, effective August 26, 1996).
- b) The bar-cut method of evisceration shall not be used.
- c) Cut-up poultry may be processed from unchilled eviscerated poultry only in air conditioned rooms (50 degrees F. or less).
- d) The meltage of ice in the chilling system shall be counted toward the minimum fresh water intake requirements provided an accurate measurement of the amount of melted ice can be obtained.
- e) Reference to the Poultry Inspector's Handbook shall mean the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- f) The Department shall approve the shipment of poultry in operational type containers, such as chill tanks or lugs, from one official establishment to another official establishment for further processing provided the means of conveyance is sealed and the poultry can reach its destination in accordance with the general chilling requirements as stated in this Section (see 9 CFR 381.66(b)).
- g) Ready-to-cook poultry shall be permitted to be moved from an official establishment prior to freezing in accordance with the specific requirements as stated in 9 CFR 381.66(f)(3).
- h) Compounds used in immersion or spray freezing procedures shall be those that are listed in the "List of Proprietary Substances or Nonfood Compounds" as adopted by the Department in Section 125.20.

(Source: Peremptory amendment at 20 Ill. Reg. **12634**, effective September 5, 1996)

Section 125.380 Labeling and Containers

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.134 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443, 381.444, 381.445, 381.454, 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (1990); 55 FR 5976, effective March 23, 1990; 55 FR 7289, effective August 28, 1990; 55 FR 49826 and 50081, effective May 29, 1991; 56 FR 1359, effective September 3, 1991; 56 FR 22638, effective January 2, 1992; 56 FR 67485, effective March 2, 1992; 57 FR 24542, effective July 10, 1992; 57 FR 43588, effective October 21, 1992; 58 FR 38046, effective August

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16, 1993; 59 FR 14528, effective May 27, 1994; 58 FR 632, 58 FR 43787, 58 FR 47624, and 59 FR 12157, effective July 6, 1994; 59 FR 40209, effective August 8, 1994; 59 FR 45189, effective September 1, 1994; 60 FR 174 and correction printed at 60 FR 5762, effective January 3, 1995; 60 FR 10304, effective February 24, 1995; 60 FR 12883, effective May 8, 1995; 59 FR 24220 and 60 FR 174, effective November 10, 1995; 60 FR 67444, effective July 1, 1996; 60 FR 44396, effective August 26, 1996).

- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
- c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
- d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
- e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
- f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600.120).
- g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act and Section 125.60.
- h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.
- i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.
- k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
- l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of

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- m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 49 FR 2235, effective July 17, 1984).
- n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.
- o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.
- p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
- r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Preemptory amendment at 20 Ill. Reg. **12634**, effective September 5, 1996)

Section 125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements

- a) The Department incorporates by reference 9 CFR 381.145(b) through 381.148, 381.148, 381.150 through 381.151, 381.200, 381.300 through 381.311 (1990; 55 FR 5976, effective March 23, 1990; 55 FR 23070, effective July 6, 1990; 56 FR 65179, effective January 15, 1992, 57 FR 28083, effective July 24, 1992, 57 FR 43588, effective October 21, 1992; 58 FR 4067, effective February 12, 1993; 58 FR 42186, effective September 8, 1993; 58 FR 63033, effective December 30, 1993; 61 FR 18047, effective June 24, 1996; 61 FR 39273, effective August 28, 1996).
- b) No poultry or poultry product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is

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identified by an official inspection legend as set forth in Section 125.90, the federal inspection legend, or is exempt from inspection as stated in Section 125.110. However, poultry or poultry products imported into the United States may be transported to an inspection site in accordance with the provisions of 9 CFR 381.200 for reinspection.

- c) Poultry and poultry products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.360 and, unless exempt from inspection, shall not be used or prepared until they have been reinspected. Any poultry and/or poultry product originally prepared at any official establishment may not be returned to any part of such establishment other than the receiving area until it has been reinspected and passed by the inspector.
- d) The official establishment shall maintain an inventory of non-poultry items (e.g., spices, preservatives) which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from such establishment by the operator of the establishment.
- e) Reinspections of poultry and/or poultry products within the official establishment shall be performed through the use of a random digit table.
- f) Poultry feet shall be approved for processing for human food in accordance with the procedures set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- g) The Department does not approve new substances to be used on poultry or in poultry products, their uses or the levels of use of an approved substance. Such substances will be permitted to be used if they will not adulterate the poultry and/or poultry product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.
- h) Ready-to-heat-and-eat poultry or stuffed ready-to-roast poultry may be moved from an official establishment prior to freezing in accordance with the provisions of Section 125.330 (specifically the incorporated language in 9 CFR 381.66(f)(3)).
- i) Any method of cleaning immediate containers used for the holding of poultry and poultry products shall be approved if such method is in compliance with the sanitation requirements (see Section 125.330).
- j) Canned poultry products which may be processed without steam-pressure cooking shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- k) The inspector shall permit lots of canned poultry products to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 381.309.
- l) Disinfectants which may be used in an official establishment shall be those products on the "List of Proprietary Substances and Nonfood

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Compounds" as adopted by the Department in Section 125.20.

(Source: Peremptory amendment at 20 Ill. Reg. ~~12634~~, effective September 5, 1996)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF CODIFICATION CHANGE

- 1) Heading of Title: Discrimination Procedures
- 2) Code Citation: Title 4
- 3) Date of Index Department Review: September 6, 1996
- 4) Headings of Parts Affected:

The Commissioner of Banks and Trust Companies and the Office of the Commissioner of Savings and Residential Finance were merged to form the Office of Banks and Real Estate by Executive Order #1 (1996). That merger was further implemented and codified by Public Act 89-508. The rules of the two predecessor agencies have been made the rules of the new agency.

In this codification change, Part and section numbers are not changing. Only changes relating to Chapter headings, some Subchapter headings, some Part headings, references to the agency, and other non-substantive changes reflecting the merger of the two agencies are being made at this time.

Part Numbers:

375 Americans with Disabilities Act Grievance Procedure
1100 Americans with Disabilities Act Grievance Procedure

Part Numbers:Headings:

300 Reverse Mortgage Loans
305 Bank Branches
307 Acquisition of Former Main Banking Premises or Branch Depository Institutions
320 Powers Incidental and Germane to Carrying on a Business
330 Lending Limits
335 Unimpaired Capital and Unimpaired Surplus
340 Loans to Bank Officers, Employees, Directors or to Firms Controlled by Them
350 Loan Agreements Providing for a Bank to Share in Pr Earnings
354 Administration of Assets Obtained in Collection of a D Statutory Bad Debts
355 Reimbursement to Banks and Corporate Fiduciaries for R Reduction in the Number of Required Directors
370 Posting Notice of a Proposed Acquisition
380 Eligible State Bank
390 Public Hearings on Acquisitions of Illinois Banks or Holding Companies by Midwest Bank Holding Companies
392 Hearings before the Office of Banks and Real Estate
397 Corporate Fiduciary Receivership Account
399 Standards for Operation and Conduct of Affair Fiduciaries
1000 Illinois Savings and Loan Act of 1985
1050 Residential Mortgage License Act of 1987
1075 Savings Bank Act

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF CODIFICATION CHANGE

- 1) Heading of Title: Financial Institutions
- 2) Code Citation: Title 38
- 3) Date of Index Department Review: September 6, 1996
- 4) Headings of Parts Affected:

The Commissioner of Banks and Trust Companies and the Office of the Commissioner of Savings and Residential Finance were merged to form the Office of Banks and Real Estate by Executive Order #1 (1996). That merger was further implemented and codified by Public Act 89-508. The rules of the two predecessor agencies have been made the rules of the new agency.

In this codification change, Part and section numbers are not changing. Only changes relating to Chapter headings, some Subchapter headings, some Part headings, references to the agency, and other non-substantive changes reflecting the merger of the two agencies are being made at this time.

Part Numbers:Headings:

300 Reverse Mortgage Loans
305 Bank Branches
307 Acquisition of Former Main Banking Premises or Branch Depository Institutions
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330 Lending Limits
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399 Standards for Operation and Conduct of Affair Fiduciaries
1000 Illinois Savings and Loan Act of 1985
1050 Residential Mortgage License Act of 1987
1075 Savings Bank Act

DEPARTMENT OF REVENUE

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1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 1996. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Agents and Products	Manufacturing Machinery & Equipment
Assessments	Medical Appliances
Automobile Renting Tax	Miscellaneous
Bingo	Motor Fuel Tax
Books and Records	Motor Vehicles
Bulk Sales	Newsprint & Ink
C.O.A.D.	Nexus
Certificate of Registration	Nonprofit Institutions
Charitable Games	Occasional Sale
Cigarette Tax	Oil Field Equipment
Claims for Credit	Penalties
Coal Fueled Devices	Pollution Control Facilities
Coal Mining Equipment	Prepaid Sales Tax
Coins & Precious Metals	Products of Photoprocessing
Computer Software	Property Tax
	Public Utility Taxes

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Construction Contractors	Real Estate Transfer Tax
Cooperative Associations	Repairs
Delivery Charges	Replacement Vehicle Tax
Distillation Machinery	Request for Information
Drug Tax Stamps	Returns
Drugs	Rolling Stock Exemption
Enterprise Zones	Sale at Retail
Exempt Organizations	Sale for Resale
Farm Machinery & Equipment	Sale of Service
Federal Excise Tax	Service Occupation Tax
Financial Institutions	Signature
Food	Special Order
Food, Drugs & Medical Appliances	Statute of Limitations
Governmental Bodies	Tax Collection
Graphic Arts	Tax Increment Financing
Gross Receipts	Tax Rate
Hotel Operators' Tax	Telecommunications Excise Tax
Interest	Temporary Storage
Interstate Commerce	Tire User Fee
Itinerant Vendors	Trade-Ins
Invested Capital Tax	Use Tax
Leasing	Vehicle Use Tax
Liquor Tax	Vendors
Local Taxes	
Mandatory Service Charges	
Manufacturer's Purchase Credit	
Manufacturers	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25¢ per page for each page over one.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Legal Services Office
101 West Jefferson Street
Springfield, IL 62794
(217) 782-6996

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CLAIMS FOR CREDIT

96-0162 04/08/1996 If a claimant submits a claim for credit and a credit is found to be due, the Department will issue a credit memorandum in the name of that claimant. The Department will make refunds only in cases of hardship. See 86 Ill. Adm. Code 130.1510. (This is a GIL.)

COAL MINING EQUIPMENT

96-0246 06/28/1996 This letter discusses the taxability of various items under the exemption afforded coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. See 86 Ill. Adm. Code 130.350. (This is a GIL.)

COMPUTER SOFTWARE

96-0174 04/10/1996 A license of software is not a taxable retail sale if the license meets all of the criteria set forth at 86 Ill. Adm. Code 130.1935(a)(1)(A-E). (This is a GIL.)

96-0184 04/10/1996 Charges for customized software are not subject to tax. "Customized software" is prepared for an individual customer's use by analyzing the customer's requirements. If held for general or repeated sale or lease, it is considered to be canned computer software and is fully subject to tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

96-0188 04/11/1996 This letter answers various questions concerning the sale of computer hardware and software and certain related services. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

96-0204 05/28/1996 This letter discusses the requirements for a license of computer software. (This is a PLR.)

CONSTRUCTION CONTRACTORS

96-0164 04/10/1996 Construction contractors who make improvements to real estate by taking materials off the market and permanently affixing them to real estate do not incur Retailers' Occupation Tax liability, but owe Use Tax on the cost price of those materials. See 86

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Ill. Adm. Code 130.2075. (This is a GIL.)

96-0171 04/10/1996 In Illinois, a construction contractor is deemed the end user of tangible personal property purchased for incorporation into real property. As the end user of such tangible personal property, the contractor incurs a Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL.)

96-0196 05/07/1996 Persons who permanently incorporate tangible personal property into real property are considered construction contractors and incur Use Tax liability based upon their cost price of materials. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

96-0198 05/14/1996 In Illinois, contractors are deemed to be the users of the items that they permanently affix to realty and owe Use Tax on the cost price of the tangible personal property that they so affix to real estate. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

96-0202 05/20/1996 When building materials are sold to persons who convert them into real estate, the seller incurs Retailers' Occupation Tax liability. See 86 Ill. Adm. Code Sections 130.2075 and 130.450. (This is a GIL.)

96-0220 05/31/1996 If a construction contractor permanently affixes tangible personal property into real estate owned by an exclusively charitable, educational, or religious organization or governmental body that has an exemption identification number ("E" number) issued by the Department, the contractor can purchase that tangible personal property tax free provided the contractor provides his or her supplier with the proper certification. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

96-0236 06/10/1996 Construction contractors who make improvements to real estate by taking materials off the market and permanently affixing them to real estate do not incur Retailers' Occupation Tax liability, but owe Use Tax on the cost price of those materials. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

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ENTERPRISE ZONES

96-0169 04/10/1996 The enterprise zone exemption allows retailers located in the municipality or unincorporated area of a county that established an enterprise zone to make tax-free sales of building materials that will be incorporated into real estate located in the enterprise zone. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

96-0179 04/10/1996 The exemption for building materials sold for incorporation into real estate in an Enterprise zone is available only when those materials are purchased from a retailer located in a municipality or the unincorporated area of a county which created the Enterprise zone into which the materials will be incorporated. (This is a GIL.)

96-0199 05/14/1996 Section 5k of the Retailers' Occupation Tax Act provides that the deduction allowed for the sale of building materials to be incorporated into real estate in an enterprise zone by remodeling, rehabilitation or new construction may be limited, to the extent authorized by ordinance, by the municipality or county that created the enterprise zone. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

96-0217 05/31/1996 This letter discusses how to document tax-free sales of building materials that will be incorporated into real estate located in an enterprise zone. (See 86 Ill. Adm. Code 130.1951.) (This is a GIL.)

EXEMPT ORGANIZATIONS

96-0239 06/11/1996 Student sponsored organizations or groups may only make tax free purchases of items for resale by providing a Resale Certificate. See 86 Ill. Adm. Code 130.2006. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

96-0172 04/10/1996 ATVs do not qualify for the exemption afforded farm machinery and equipment. (This is a GIL.)

96-0189 04/11/1996 The farm machinery and equipment exemption applies to machinery and equipment that is used primarily in production agriculture or for use in State or Federal agricultural programs. See 86 Ill. Adm.

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Code 130.305. (This is a GIL.)

96-0232 06/05/1996 Farm utility vehicles that meet the requirements for the farm machinery and equipment exemption, may qualify for the exemption. Taxpayers that use CATORS and MULES in a qualifying manner may claim the exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

FOOD

96-0208 05/28/1996 The manner in which food is taxed depends upon the character of the retailer's establishment. As a general rule, if a retailer provides facilities for on-premises consumption, that retailer incurs the high rate of tax on all food sales. If a retailer sells food for immediate consumption and grocery type bulk items, and also provides facilities for on-premises consumption, the low rate of tax can be charged on the grocery-type items only if the areas where food will be consumed on-premises are partitioned and served by a separate means of collection. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

96-0240 06/12/1996 Items that qualify as food, drugs, medicines, and medical appliances are subject to tax at the rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

GROSS RECEIPTS

96-0166 04/10/1996 A retailer filing on the gross sales basis may take a bad debt deduction as an authorized deduction on Form ST-1, Sales and Use Tax Return, for the month in which that bad debt was written off for Federal income tax purposes. (This is a GIL.)

96-0209 05/28/1996 Gross receipts are defined as all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. (This is a GIL.)

96-0211 05/28/1996 When tangible personal property that is sold under installment contracts, the interest or finance charges on account of credit so extended are not considered to be a part of the "selling price" or

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gross receipts in computing Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.420. (This is a GIL.)

96-0213

05/29/1996 The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. However, documentation which demonstrates that the purchaser had the option of taking delivery of the property, at the seller's location, for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge will suffice. 86 Ill. Adm. Code 130.415(d). (This is a GIL.)

96-0214

05/30/1996 The sale of coupon booklets is the sale of intangible items and is not subject to Retailers' Occupation Tax liability on the gross receipts from those sales. See 86 Ill. Adm. Code 130.2115. (This is a GIL.)

96-0224

05/31/1996 When an Illinois retailer sells cellular phones to a customer for a particular dollar amount, he or she has made a sale subject to the Retailers' Occupation Tax. The retailer must pay Retailers' Occupation Tax to the Department based upon its gross receipts, or actual amount received, from the sale of cellular phones. (This is a GIL.)

96-0237

06/11/1996 The County Motor Fuel taxes imposed in DuPage, Kane, and McHenry Counties are imposed on the retailer and must be included in the gross receipts on Line 1 of Form ST-1. See 86 Ill. Adm. Code 130.435. (This is a GIL.)

96-0242

06/12/1996 Generally, when retailers sell helium under contracts that also require machine rental, retailers are subject to Retailers' Occupation Tax on the total receipts whether or not the rental is separately stated. (See generally, 86 Ill. Adm. Code Sections 130.220 and 130.2010 relessors.) (This is a GIL.)

HOTEL OPERATORS' TAX

96-0182

04/10/1996 The Hotel Operators' Occupation Tax Act provides no exemption for the rental of rooms to churches, charities, schools, or units of government.

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(This is a GIL.)

96-0219

05/31/1996 The Hotel Operators' Occupation Tax applies to gross receipts received from a person who occupies a room or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. Therefore, when a person becomes liable for paying a charge to rent a room, those gross receipts are subject to tax whether or not the person shows up to occupy the room. See 86 Ill. Adm. Code 480.101(c)(1). (This is a GIL.)

INVESTED CAPITAL TAX

96-0205

05/28/1996 In Illinois, "invested capital tax" is provided for in the Messages Tax Act (35 ILCS 610/1 et seq.), the Gas Revenue Tax Act (35 ILCS 615/1 et seq.), the Public Utilities Revenue Act (35 ILCS 620/1 et seq.) and the Water Company Invested Capital Tax Act (35 ILCS 625/1 et seq.). (This is a GIL.)

LEASING

96-0185

04/11/1996 The provisions of the enclosed copy of 86 Ill. Adm. Code 130.455 entitled Motor Vehicle Leasing and Trade-In Allowances may be applied to all forms of tangible personal property. See 86 Ill. Adm. Code 130.455. (This is a GIL.)

96-0201

05/14/1996 This letter discusses issues surrounding automobile leasing and sales of automobiles at the end of lease periods. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

96-0218

05/31/1996 In Illinois, the lessor of tangible personal property under a true lease, except for automobiles lease for terms of one year or less, is considered to be the end user of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

96-0222

05/31/1996 In Illinois, the lessor of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, is considered to be the end user of the property to be leased. As the end user of tangible personal property located in Illinois, the lessor incurs Use Tax on the lessor's cost price of the property. See 86 Ill. Adm. Code 130.220 and 130.2010. (This is a GIL.)

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LOCAL TAXES

96-0178 04/10/1996 The Home Rule Municipal Retailers' Occupation Tax Act provides that the corporate authorities of a home rule municipality may impose a tax upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the municipality on the gross receipts from these sales made in the course of such business. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

96-0191 04/12/1996 Local taxes are incurred when a seller engages in the business of selling in a municipality imposing such taxes. It is the Department's position that the most important element in selling is the acceptance of the purchase order. Consequently, the location at which the purchase order is accepted determines the proper tax rate. In the absence of acceptance of a purchase order in Illinois, the location of the sale is considered to be where the inventory is maintained in the State. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

MANUFACTURER'S PURCHASE CREDIT

96-0160 04/08/1996 Supplies and consumables, such as die lube, coolants, hydraulic fluid, and flux that are used in or on aluminum and zinc die casting machines can qualify as production related tangible personal property for purposes of using Manufacturer's Purchase Credit. See 35 ILCS 110/3-70. (This is a GIL.)

MANUFACTURING MACHINERY & EQUIPMENT

96-0193 04/23/1996 Ethylene oxide gas cannot qualify for the manufacturing machinery and equipment exemption. Although a gas may be essential to a manufacturing process, it does not constitute machinery and equipment. (This is a PLR.)

96-0203 05/28/1996 If manufacturing machinery and equipment is purchased by persons not acting as manufacturers, or lessors to manufacturers, the manufacturing exemption will not be available for the equipment. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

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96-0212 05/29/1996 This letter discusses the applicability of the manufacturing machinery & equipment exemption to several items used in a manufacturing process. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

96-0223 05/31/1996 In order to document the manufacturing machinery and equipment exemption, the user of such machinery and equipment must supply an exemption certificate to the retailer. See 86 Ill. Adm. Code 130.330(g)(1). (This is a GIL.)

96-0227 05/31/1996 The Retailers' Occupation Tax provides an exemption for machinery and equipment used primarily in the manufacturing of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

MEDICAL APPLIANCES

96-0183 04/10/1996 Breast pumps do not directly substitute for a malfunctioning part of the body and therefore do not qualify for the low rate of tax afforded medical appliances. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

MISCELLANEOUS

96-0177 04/10/1996 An exemption from the Retailers' Occupation Tax and the corresponding locally imposed retailers' occupation taxes exists for fuel used by air common carriers in international flights. See 86 Ill. Adm. Code 130.321. (This is a GIL.)

96-0181 04/10/1996 Response to questionnaire regarding resale & exemption certificates. (This is a GIL.)

96-0187 04/11/1996 Tangible personal property that is sold by airlines to passengers on flights while over Illinois is subject to Illinois Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

96-0192 04/12/1996 Discusses various issues pertaining to corporate purchasing card sales tax reporting. (This is a GIL.)

96-0195 05/02/1996 The Board of Appeals administers a voluntary disclosure program that provides for limited

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liabilities for tax liabilities incurred prior to registration with the Department. See 86 Ill. Adm. Code 210.126. (This is a GIL.)

- 96-0197 05/13/1996 This letter sets out the various limitations periods for issuance of Notices of Tax Liability under the Retailers' Occupation Tax and Use Tax Acts. It also describes the Voluntary Disclosure Program of the Board of Appeals. See 86 Ill. Adm. Code 210.126. (This is a GIL.)

- 96-0241 06/12/1996 This letter provides general information regarding nexus, exempt organizations, medical appliances, delivery charges, and violations. (This is a GIL.)

MOTOR FUEL TAX

- 96-0170 04/10/1996 Exemptions available to municipalities under the Motor Fuel Tax are limited to municipal corporations owning and operating a local transportation system for public service in Illinois. See 86 Ill. Adm. Code 500.210. (This is a GIL.)

NEXUS

- 96-0186 04/11/1996 This letter describes the nexus requirements that must be met before a seller is subject to Illinois sales tax laws. See 86 Ill. Adm. Code 150.201; and Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)

OCCASIONAL SALE

- 96-0159 04/08/1996 Persons who make isolated or occasional sales do not incur Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.110. (This is a GIL.)

POLLUTION CONTROL FACILITIES

- 96-0167 04/10/1996 Equipment that confers an economic or commercial benefit to the user is not intended primarily for pollution control purposes. (This is a GIL.)

- 96-0175 04/10/1996 Generally, incinerators that are used for the disposal of infectious medical waste can qualify as pollution control facilities under the pollution

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control facilities exemption. (This is a GIL.)

- 96-0176 04/10/1996 Pump trucks that are used to clean up liquid spills may qualify for the pollution control facilities exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

- 96-0225 05/31/1996 If the primary purpose of coating equipment is to paint motor vehicles, such equipment does not qualify for the pollution control facilities exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

REPLACEMENT VEHICLE TAX

- 96-0206 05/28/1996 When a taxpayer receives money in settlement of an insurance claim and uses it to purchase a vehicle, the Replacement Vehicle Tax does not apply. See 625 ILCS 5/3-2001. (This is a GIL.)

SALE AT RETAIL

- 96-0158 04/05/1996 This letter discusses the sales tax aspect of a claim for damage to property. (This is a GIL.)

- 96-0221 05/31/1996 Seminar or training session providers incur

Retailers' Occupation Tax on the gross receipts from sales in Illinois of seminar or training manuals such as workbooks and reference books. (This is a GIL.)

SALE FOR RESALE

- 96-0157 04/05/1996 Section 2c of the Retailers' Occupation Tax Act, 35 ILCS 120/2c (1994 State Bar Edition), provides that if the purchaser is not registered with the Department as a taxpayer, but claims to be a reseller of the tangible personal property in such a way that such resales are not taxable under this Act or under some other tax law that the Department may administer, such purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside of Illinois) shall apply to the Department for a resale number. See 86 Ill. Adm. Code 130.1415. (This is a GIL.)

- 96-0163 04/10/1996 In a drop ship situation, the purchaser

must provide the seller with a Certificate of Resale documenting the fact that the sale to the purchaser

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(with delivery in Illinois) is a sale for resale. While a registration/resale number on a Certificate of Resale is preferred, the purchaser can also provide "other evidence" on the resale certificate that the sale was for resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

96-0173 04/10/1996 This letter sets out how a standard drop shipment is treated in Illinois for Retailers' Occupation Tax and Use Tax purposes. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

96-0190 04/11/1996 If a customer purchases tangible personal property in Illinois for resale as tangible personal property, and not for use or consumption, the purchaser must provide the seller with a Certificate of Resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

96-0200 05/14/1996 The Department does not pre-approve Certificates of Resale. However, a retailer will not be liable for Retailers' Occupation Tax on the receipts from a sale when it accepts a Certificate of Resale that contains a valid registration number or resale number and that complies with the requirements of 86 Ill. Adm. Code 130.1405. (This is a GIL.)

96-0215 05/31/1996 If a seller obtains a proper certificate of resale that contains a registration or resale number that is valid on the date it is given, his liability should be at an end consistent with the Illinois court decisions in *Rock Island Tobacco and Specialty Co. v. Department of Revenue*, 87 Ill. App. 3d 476, 1980, and *Central Illinois Light Co. v. Department of Revenue*, 117 Ill. App. 3d 911, 1983. See 86 Ill. Adm. Code Sections 130.1401 and 130.1405. (This is a GIL.)

96-0244 06/13/1996 This letter rescinds a prior 1977 letter regarding serving equipment that may be purchased for resale or for use in lieu of more durable serving equipment. See 86 Ill. Adm. Code 130.2070. (This is a GIL.)

96-0245 06/26/1996 Resale numbers are issued to persons who make no taxable sales in Illinois but who need the wherewithal to provide suppliers with Certificates of Resale when purchasing items which will be resold. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

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96-0247 06/28/1996 Illinois law requires a Certificate of Resale to contain the information set out in part (b) of 86 Ill. Adm. Code 130.1405. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

SALE OF SERVICE

96-0168 04/10/1996 Under the Service Occupation Tax Act, a serviceman is taxed on tangible personal property transferred as an incident to the sale of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

96-0180 04/10/1996 Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal services. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

SERVICE OCCUPATION TAX

96-0161 04/08/1996 This letter describes the circumstances in which a recycler of toner cartridges, as either a retailer or a serviceman, incurs Retailers' Occupation Tax or Service Occupation Tax. (This is a GIL.)

96-0231 06/03/1996 Under the Service Occupation Tax, servicemen are taxed on tangible personal property transferred as an incident of the sale of service. However, if the interstate commerce exemption is applicable, servicemen do not incur Service Occupation Tax liability on property that they resell as an incident to a sale of service under an agreement by which the servicemen are obligated to make physical delivery of the goods from a point in Illinois to a point outside Illinois, not to be returned to a point within Illinois, provided that such delivery is actually made. See 86 Ill. Adm. Code 140.501. (This is a GIL.)

96-0235 06/10/1996 If no tangible personal property is transferred incident to the sale of service, no Service Occupation Tax or Retailers' Occupation Tax liability is incurred. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

96-0238 06/11/1996 The purchase of tangible personal property that is transferred by servicemen to service customers may result in either Service Occupation Tax liability or Use Tax liability for those servicemen, depending

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upon which tax base they choose to calculate their liability. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

- 96-0243 06/13/1996 The transfer of tangible personal property to a service customer may result in either Service Occupation Tax liability or Use Tax liability, depending upon which tax base the serviceman chooses to calculate his or her liability. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

- 96-0207 05/28/1996 The sale of fax services is subject to the Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.110. (This is a GIL.)

- 96-0226 05/31/1996 Charges for services that are provided by a telecommunications retailer that are necessary for, or are directly related to, the retailer's provision of telecommunications to customers are included in the gross charges subject to Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.100-495.130. (This is a GIL.)

- 96-0228 05/31/1996 If a person who originates or receives telecommunications in this State claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such resellers shall provide their resale number to suppliers in connection with certifying to the suppliers that any purchases are nontaxable because they are being purchased for resale. Telecommunications retailers must register with the Department and file returns. See 86 Ill. Adm. Code 495.110. (This is a GIL.)

- 96-0229 04/10/1996 In a prepaid telephone card program, the Telecommunications Excise Tax is incurred at the time telephone service is used in a taxable manner. The arrangement between the telephone service provider and the retail store will affect the method of tax collection required. (This is a GIL.)

TEMPORARY STORAGE

- 96-0230 05/28/1996 The temporary storage exemption is available for tangible personal property which is

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"acquired outside this State and which subsequent to being brought into this State and stored here temporarily ... is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered is used solely outside this State." 86 Ill. Adm. Code 150.310(a)(4). (This is a GIL.)

- 96-0233 06/05/1996 The temporary storage exemption requires that items be acquired outside Illinois and, after being stored here temporarily, that they be used entirely outside Illinois. See 35 ILCS 105/3-55. (This is a PLR.)

USE TAX

- 96-0165 04/10/1996 A purchaser using tangible personal property in Illinois which has been purchased outside of Illinois and who has paid a tax in another state in respect to the sale, purchase, or use of that property is entitled to a credit, to the extent of the tax properly due and paid in the other state. See 86 Ill. Adm. Code 150.310. (This is a GIL.)

- 96-0194 04/26/1996 No sales tax advertisements violate Section 7 of the Use Tax Act. See 35 ILCS 105/7.

- 96-0210 05/28/1996 Tangible personal property purchased by a contractor to fulfill its obligations under a contract with a governmental body is subject to Illinois Use Tax liability. See 86 Ill. Adm. Code 150.101. (This is a GIL.)

- 96-0234 06/10/1996 This letter discusses Use Tax applications when equipment that may qualify for the Manufacturing Machinery and Equipment exemption is leased under a true lease. See 86 Ill. Adm. Code 130.220, 150.310, and 130.330. (This is a GIL.)

VEHICLE USE TAX

- 96-0216 05/31/1996 This letter discusses the application of the Vehicle Use Tax (625 ILCS 5/3-1001 et seq.), Retailers' Occupation Tax/Use Tax (35 ILCS 120/1 et seq.), and 35 ILCS 105/1 et seq.), and the Automobile Renting Occupation and Use Tax (35 ILCS 155/1 et seq.) to a vehicle lease situation. (This is a GIL.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 3, 1996 through September 9, 1996 and have been scheduled for review by the Committee at its October 15, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
10/23/96	Department of Revenue, Uniform Penalty and Interest Act (86 Ill Adm Code 700)	7/12/96 20 Ill Reg 8981	10/15/96

PROCLAMATIONS

96-418

AFRICAN FESTIVAL OF THE ARTS DAY

Whereas, the 7th annual African Festival of the Arts at DuSable Museum will be held on August 31, 1996 in Chicago, Illinois; and
Whereas, the Festival was founded by Patrick Woodtor; and

Whereas, the purpose of the Festival is to celebrate the culture, heritage and traditions of the people and African ancestry through music, arts, crafts, dance, food and folklore; and

Whereas, the highlight of the African Festival is the creation of a traditional African Marketplace; and

Whereas, this Marketplace will include over 200 exhibitors who will display fine art and collectibles, handicrafts and memorabilia, fashions, traditional arts and crafts and ethnic foods; and

Whereas, the Festival will profile the international image of Chicago and Chicago's multiculturalism through the many fine examples of African cultural displays and performances;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 31, 1996, as AFRICAN FESTIVAL OF THE ARTS DAY in Illinois.

Issued by the Governor August 22, 1996.

Filed by the Secretary of State September 3, 1996.

96-419

FAIRFIELD GLADE'S ILLINOIS DAY

Whereas, Fairfield Glade is a resort and retirement community; and

Whereas, Fairfield Glade is located about 60 miles west of Knoxville, Tennessee; and

Whereas, many people who reside in this community have relocated from jobs and communities in Illinois; and

Whereas, these people still have family and businesses in the State of Illinois and continue to celebrate this heritage by way of an annual Illinois picnic;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 7, 1996, as FAIRFIELD GLADE'S ILLINOIS DAY in Illinois.

Issued by the Governor August 11, 1996.

Filed by the Secretary of State September 3, 1996.

96-420

REFLEX SYMPATHETIC DYSTROPHY SYNDROME MONTH

Whereas, Reflex Sympathetic Dystrophy Syndrome (RSDS) is a complex condition with varying degrees of severity and disability; and

Whereas, RSDS is a painful, multi-symptom condition usually affecting arms, legs, or both, but may affect any area of the body; and

Whereas, RSDS affects millions of people in this country at almost any age, causing loss of independence, loss of a job or ability to attend school, and loss of income; and

Whereas, Reflex Sympathetic Dystrophy Syndrome Association, a non-profit organization with chapters in Illinois and many other states, promotes research

and helps meet the needs of patients and their families;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1996 as REFLEX SYMPATHETIC DYSTROPHY SYNDROME MONTH in Illinois.

Issued by the Governor August 22, 1996.

Filed by the Secretary of State September 3, 1996.

96-421

ROBERSON TRANSPORTATION SERVICES, INC. DAY

Whereas, Roberson Transportation Services, Inc. began with one truck 50 years ago by Chairman Roger Roberson's father, Roy Roberson, and uncle, Stanley Albert; and

Whereas, the company began by hauling pre-fabricated houses and building materials for the new pre-fabricated housing companies; and

Whereas, Roberson Transportation Services, Inc. was then called Pre-Fab Transit, but quickly gained a nationally recognized reputation and a diverse clientele soon followed; and

Whereas, Roberson Transportation Services, Inc. has been a successful Illinois trucking business of general commodities since 1946; and

Whereas, Roberson Transportation Services, Inc.'s competitive strength is its ability and commitment to consistently provide flexible service to its clients; and

Whereas, the company was one of the first Just In Time carriers in the nation, long before the concept was popularized; and

Whereas, the company operates in the entire United States and Canada; and Whereas, day in and day out, nearly 3 million men and women deliver the goods that keep our economy going and growing; and

Whereas, truck drivers ensure that raw materials and intermediate products needed to build cars, trucks, appliances, and other important consumer goods are delivered to the assembly line safely and on time; and

Whereas, over the last decade, the fatal accident rate for big trucks has dropped 34%, while the miles driven by truck drivers has increased more than 37%;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 24, 1996, as ROBERSON TRANSPORTATION SERVICES, INC. DAY in Illinois.

Issued by the Governor August 11, 1996.

Filed by the Secretary of State September 3, 1996.

96-422

ROBERT MARIANO DAY

Whereas, Robert Mariano serves as President of Dominick's Finer Foods, the Chicagoland area's second-largest grocer; and

Whereas, he has served Dominick's Finer Foods for more than 22 years; and Whereas, he has risen to the position of President of Dominick's Finer Foods by working his way up through the ranks; and

Whereas, his rise through the ranks has been marked by a reinvention of the Dominick's management structure, development and implementation of Dominick's "Fresh Store" concept and improvement of their perishable-goods buying system; and

Whereas, his early tenure as president has been marked by an ambitious store expansion; and

Whereas, he has taken steps to emphasize Dominick's role as a responsible and generous community partner through the establishment of a corporate charitable foundation; and

Whereas, his noteworthy and impressive accomplishments have been recognized by his peers in the Illinois Retail Merchants Association; and

Whereas, they have chosen to recognize Robert Mariano by naming him the 1996 Illinois Retailer of the Year;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 11, 1996, as ROBERT MARIANO DAY in Illinois.

Issued by the Governor August 22, 1996.

Filed by the Secretary of State September 3, 1996.

96-423

URUGUAY DAY

Whereas, August 25th is the 171st anniversary of the independence of Uruguay, a nation whose goals and objectives of freedom and democracy for its people are similar to those of the United States; and

Whereas, these two countries also share a long history of commercial ties, including Uruguay's invaluable assistance to the City of Chicago after its devastating fire in 1871; and

Whereas, as a trading partner with this country, Uruguay encourages the development of its resources, the enhancement of its agri-business, and the expansion of its industry to our mutual benefit;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 25, 1996, as URUGUAY DAY in Illinois in celebration of this significant date in its history.

Issued by the Governor August 22, 1996.

Filed by the Secretary of State September 3, 1996.

96-424

MOTHERS OF TWINS AND MULTIPLES WEEK

Whereas, for 34 years, the Mothers of Twins Club, a national organization with a statewide membership of 1,239, has offered support to parents who face one of life's more unique situations; and

Whereas, the club focuses on bringing together parents, educators, and physicians to exchange information of the rearing, development, and recognition of the individuality of twins; and

Whereas, the club is hosting its 34th annual convention October 27-November 3, 1996, at Pheasant Run Resort in St. Charles, Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 27-November 3, 1996, as MOTHERS OF TWINS AND MULTIPLES WEEK in Illinois.

Issued by the Governor August 16, 1996.

Filed by the Secretary of State September 3, 1996.

96-425

VIRGINIA TRAGER DAY

Whereas, Virginia Trager of Edelstein in Northern Peoria County is celebrating her 90th birthday on October 8, 1996; and

Whereas, she has been involved in public service in a variety of capacities, ranging from serving as Peoria County Republican Chairwoman and volunteering at the Peoria County Republican Headquarters to being Tax Collector of Medina Township for 15 years; and

Whereas, her family has also been devoted to public service, as her late husband Clyde Trager, attorney, served as state senator from 1944 to 1956; and Whereas, Virginia Trager is highly involved in her community, both spiritually and socially, having chaired the Women's United Thank Offering at St. Francis Episcopal Mission in Chillicothe and being a member of the Child Guidance Club; and

Whereas, she is devoted to her family which includes sons Tom and Bill, seven grandchildren, and 12 great-grandchildren; and Whereas, she will be celebrating this momentous occasion on Friday, August 30, 1996, with her family and friends;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 8, 1996, as VIRGINIA TRAGER DAY in Illinois in recognition of her 90th Birthday and her significant other achievements.

Issued by the Governor August 26, 1996.

Filed by the Secretary of State September 3, 1996.

96-426

VOCATIONAL EDUCATION WEEK

Whereas, the Illinois Vocational Association has designated the week of February 9-15, 1997, as Vocational Education Week; and

Whereas, the theme for Vocational Education Week is "Vocational-Technical Education: School-to-Work Transition"; and

Whereas, vocational education supplies Illinois with a strong, well-trained work force that enhances productivity in business and industry and contributes to the state's leadership in the national and international marketplace; and

Whereas, vocational education stimulates the growth and vitality of businesses and industries by preparing workers for the occupations forecast to experience the largest and fastest growth in the next decade; and

Whereas, vocational education serves individual citizens by enabling them to find satisfying careers suited to their own skills and interests, by providing technical skills that allow them to excel in their chosen careers, and by teaching leadership skills that serve them on the job, at home, and in the community; and

Whereas, a strong vocational education program planned and carried out by trained vocational educators is vital to the future economic development of our state and the well-being of its citizens;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 9-15, 1997, as VOCATIONAL EDUCATION WEEK in Illinois and urge all citizens to become familiar with the services and benefits offered by the vocational education programs in our state and to support and participate in these programs as necessary to enhance individual work skills and productivity.

Issued by the Governor August 26, 1996.

Filed by the Secretary of State September 3, 1996.

96-427

DUCHOSSOIS CENTER FOR ADVANCED MEDICINE DAY

Whereas, the Duchossois Center for Advanced Medicine of the University of Chicago Hospitals has been designated as a state-of-the-art outpatient and diagnostic center; and

Whereas, the Duchossois Center for Advanced Medicine was made possible through the generosity of the Richard Duchossois family, who has contributed \$21 million to the University of Chicago, including \$2 million to the Chicago Medical Center, to establish to Beverly Duchossois Cancer Research Laboratories in memory Mr. Duchossois' late wife; and

Whereas, the Duchossois Center for Advanced Medicine, which occupies the entire block between 57th and 58th Streets and Maryland and Cottage Grove Avenues, will combine outpatient clinics as well as all diagnostic and treatment facilities for ambulatory patients in one convenient central location; and

Whereas, the Duchossois Center for advanced Medicine will serve as a model for medical education and health care delivery in the coming decades, having been designed with the help of physicians, scientists, medical education, hospital administrators, and architects;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 9, 1996, as DUCHOSSOIS CENTER FOR ADVANCED MEDICINE DAY in Illinois.

Issued by the Governor August 27, 1996.

Filed by the Secretary of State September 3, 1996.

96-428

STARLIGHT DAY

Whereas, the Las Vegas production of Sir Andrew Lloyd Webber's triumphant musical "Starlight Express" premiered on September 14, 1993; and

Whereas, the cast and crew of "Starlight Express" at the Las Vegas Hilton demonstrate the hard work, team spirit, skills, celebration of cultural diversity, and determination necessary for success; and

Whereas, the cast and crew of the Las Vegas production of "Starlight Express" are positive role models for the youth of the state and nation; and

Whereas, the Andrew Lloyd Webber musical production "Starlight Express" communicated to children and adults of all ages and from all cultures the message that every individual can achieve his or her goals by using their own talents; and

Whereas, the guiding principles of "Starlight Express" help motivate and improve the personal, social, and academic growth of youth as future productive citizens of our state and nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 8, 1996, as STARLIGHT DAY in Illinois.

Issued by the Governor August 27, 1996.

Filed by the Secretary of State September 3, 1996.

96-429

UNION LABEL WEEK

Whereas, a strong Madison County economy depends on good jobs; and Whereas, buying union-made goods and services helps preserve American jobs and strengthens the economy; and

Whereas, products and services identified by a union label, shop card or service button are guaranteed to be the best-quality American-made products and

services;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 2-8, 1996, as UNION LABEL WEEK in Illinois.

Issued by the Governor August 27, 1996.

Filed by the Secretary of State September 3, 1996.

96-426

VOCATIONAL EDUCATION WEEK (REVISED)

Whereas, the Illinois Vocational Association has designated the week of February 9-15, 1997, as Vocational Education Week; and

Whereas, the theme for Vocational Education Week is "Put Your Career in Gear"; and

Whereas, vocational education supplies Illinois with a strong, well-trained work force that enhances productivity in business and industry and contributes to the state's leadership in the national and international marketplace; and

Whereas, vocational education stimulates the growth and vitality of businesses and industries by preparing workers for the occupations forecast to experience the largest and fastest growth in the next decade; and

Whereas, vocational education serves individual citizens by enabling them to find satisfying careers suited to their own skills and interests, by providing technical skills that allow them to excel in their chosen careers, and by teaching leadership skills that serve them on the job, at home, and in the community; and

Whereas, a strong vocational education program planned and carried out by trained vocational educators is vital to the future economic development of our state and the well-being of its citizens;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 9-15, 1997, as VOCATIONAL EDUCATION WEEK in Illinois and urge all citizens to become familiar with the services and benefits offered by the vocational education programs in our state and to support and participate in these programs as necessary to enhance individual work skills and productivity,

Issued by the Governor August 26, 1996.

Filed by the Secretary of State September 6, 1996.

96-430

COMPULSIVE GAMBLING AWARENESS WEEK

Whereas, the Illinois Council on Problem and Compulsive Gambling (ICPCG) is hosting the National Council on Problem Gambling's 10th National Conference on Gambling Behavior September 3-6, 1996; and

Whereas, compulsive gambling can cost Illinois taxpayers millions of dollars in prosecution, incarceration, and in the destruction of families and loss of jobs; and

Whereas, the Illinois Council on Problem and Compulsive Gambling is making the citizens of Illinois aware of the numerous problems associated with compulsive gambling, as well as the help that is available to assist in coping with this illness;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 1-7, 1996, as COMPULSIVE GAMBLING AWARENESS WEEK in Illinois.

Issued by the Governor August 29, 1996.

Filed by the Secretary of State September 6, 1996.

96-431

FRIENDS OF CSU AWARD DAY

Whereas, there are many people who support Chicago State University (CSU) in a variety of ways; and

Whereas, the CSU Foundation will host its 2nd Annual Friends of CSU Awards Dinner on September 10, 1996; and

Whereas, themed "Technology for Tomorrow's Leaders," the event will recognize supporters of CSU and raise money for technology enhancement initiatives at CSU; and

Whereas, Chicago State University has been fortunate to have Friends such as Richard Thomas, retired Chairman and CEO of First Chicago NBD Corporation, who will be given the Friends of CSU Award for his outstanding efforts on behalf of the university;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 10, 1996, as FRIENDS OF CSU AWARD DAY in Illinois.

Issued by the Governor August 29, 1996.

Filed by the Secretary of State September 6, 1996.

96-432

PETE AND LINDA DAY

Whereas, during the Monday-Friday, 6-10 a.m. time period, the morning radio duo of Pete McMurray and Linda Lampert on WRRX-FM (104.9) finished first in July's Arbitron ratings with an 18.2 audience share; and

Whereas, WRRX-FM, a classic rock radio station, finished first in the Rockford radio market ratings in total audience share and first among ages 18-49 and 25-54; and

Whereas, during the popular "McMurray in the Morning" radio show, Pete McMurray and Linda Lampert entertain area listeners with bits like "Telephone Telepathy" and other games and giveaways. In addition, news and information are provided twice an hour; and

Whereas, Pete McMurray and Linda Lampert will be honored for their fourth anniversary with WRRX-FM on October 18, 1996, at the Tebala Shrine Temple;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 18, 1996, as PETE AND LINDA DAY in honor of the duo and their contributions to morning radio in the Rockford area.

Issued by the Governor August 29, 1996.

Filed by the Secretary of State September 6, 1996.

96-433

RADIOLOGIC TECHNOLOGISTS DAYS

Whereas, expanding health services and advancing knowledge are creating an ever-increasing demand for the services of qualified radiologic technologists; and

Whereas, radiologic technologists are concerned with the conservation of life and health and the prevention of disease; and

Whereas, radiologic technology offers skilled and capable individuals an opportunity for leadership in the development of health programs and the

personal satisfaction that comes from helping others; and

Whereas, the Illinois State Society of Radiologic Technologists is holding its 61st annual state conference September 25-28;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 25-28, 1996, as RADIOLOGIC TECHNOLOGISTS' DAYS in Illinois.

Issued by the Governor August 29, 1996.

Filed by the Secretary of State September 6, 1996.

96-434

AMERICA GOES BACK TO SCHOOL: GET INVOLVED: WEEK

Whereas, the week of September 8-14, 1996, has been designated as "America Goes Back to School Week: Get Involved!" in order to encourage all Americans to support family and community involvement in learning; and

Whereas, America Goes Back to School is sponsored by the Partnership for Family Involvement in Education in conjunction with the United States Department of Education and the America Goes Back to School Steering Committee; and

Whereas, this program was designed to foster support for schools by inviting everyone in the community -- parents, grandparents, professionals, skilled tradesmen, religious leaders, artists, and the like -- to play a more active role in improving education in their communities; and

Whereas, these kinds of efforts will make a positive difference in the lives of students and the State of Illinois can only benefit from its residents seeking to make a difference in their local schools;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 8-14, 1996, as AMERICA GOES BACK TO SCHOOL: GET INVOLVED! WEEK in Illinois.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-435

CAROLYN FAUBLE CONGRATULATED

Whereas, Carolyn Fauble is a resident of Morton, Illinois, and a loving wife and mother; and

Whereas, she is an employee of Pekin Hospital in Nursing Administration and she began working on her master's degree about three years ago; and

Whereas, during the summer of 1995, she was diagnosed with adeno-carcinoma and began taking chemotherapy treatments; and

Whereas, through all of these grueling treatments, Carolyn Fauble still managed to take her classes via mail and telephone in order to complete her master's degree; and

Whereas, she received her Master of Science in Health Services Administration from the College of St. Francis in Joliet on August 10, 1996, and she earned a cumulative G.P.A. of 4.0; and

Whereas, according to her family, she has been a shining example of strength and determination, she has not complained even though she has often felt very ill, and most of all, she has never lost her faith in God through all of her hardship;

Therefore, I, Jim Edgar, Governor of the State of Illinois, congratulate CAROLYN FAUBLE for receiving her master's degree and commend her for setting an

excellent example of strength, determination and steadfast faith.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-436

CARTER TEMPLE CHRISTIAN METHODIST EPISCOPAL CHURCH DAY

Whereas, Carter Temple Christian Methodist Episcopal Church will celebrate its 75th Anniversary on Sunday, September 8, 1996; and

Whereas, Carter Temple Christian Methodist Episcopal Church began in 1921 with a small group of persons dedicated to their faith and focused on achieving their dream of building a church; and

Whereas, members of Carter Temple Christian Methodist Episcopal Church were able to withstand the Depression of the 1930's through their faith and dedication by giving of themselves for the sake of their church; and

Whereas, Carter Temple Christian Methodist Episcopal Church has been instrumental in the molding of young people through traditions such as the African Festival Family Tea; and

Whereas, Carter Temple Christian Methodist Episcopal Church has continually been an important contributor to the community in which it is located; and

Whereas, Carter Temple Christian Methodist Episcopal Church has continued to be a large part of its members' daily lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 8, 1996, as CARTER TEMPLE CHRISTIAN METHODIST EPISCOPAL CHURCH DAY in Illinois.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-437

CHAMBER OF COMMERCE WEEK

Whereas, chambers of commerce work with Illinois businesses and industry to advance the civic, economic, industrial, professional, and cultural life of our state; and

Whereas, chambers of commerce have contributed to the civic and economic life of Illinois for 158 years, since the Galena Chamber of Commerce was founded in 1838; and

Whereas, chambers of commerce encourage the growth of existing industries, services, and commercial firms and encourage new businesses and individuals to locate in Illinois, acting as a liaison with the State of Illinois, local governments, schools, and the business community; and

Whereas, this year marks the 81st anniversary of the Illinois Association of Chamber of Commerce Executives, a career development organization for chamber of commerce professional managers; and

Whereas, Illinois is the home to international chambers of commerce, the Midwestern Service Center of the U.S. Chamber of Commerce, the Illinois State Chamber of Commerce, and more than 300 local chambers of commerce;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 29-October 5, 1996, as CHAMBER OF COMMERCE WEEK in Illinois.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-438

EILEEN TANNER HOMECOMING DAY

Whereas, Eileen Tanner has served the Ladies Auxiliary to the Veterans of Foreign Wars of the United States with hard work and dedication; and

Whereas, Eileen Tanner has been a Life Member of Clifford E. Johnson Auxiliary #9759 in Loves Park, Illinois, and has served in numerous capacities for this organization, ranging from State Chief of Staff, District and State Director, National Cancer Aid and Research Director, National Historian, National District Council Member, to the National Chairman for the Big Ten Conference programs; and

Whereas, Eileen Tanner continued to serve this organization as National Senior Vice-President of the Ladies Auxiliary to the Veterans of Foreign Wars in 1995; and

Whereas, Eileen Tanner became the National President of the Ladies Auxiliary August 17th, 1996, at the National Convention in Louisville, Kentucky; and

Whereas, Eileen Tanner will be honored with a Homecoming Weekend in September to celebrate her installation in this office;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 28, 1996, as EILEEN TANNER HOMECOMING DAY in Illinois.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-439

MAKE A DIFFERENCE DAY

Whereas, the foundation of a humane and just society is the people's willingness to work together for the common good; and

Whereas, our country's volunteer force of 89.2 million people is a great treasure; and

Whereas, self-sacrificing individuals mobilized to help others can stem the tide of poverty, hunger, homelessness, spouse and child abuse, and other problems that afflict society; and

Whereas, the giving of oneself in service to another empowers the giver and the recipient; and

Whereas, it is the duty of all our citizens to search out opportunities to make a difference in the lives of those around them and dedicate time and resources to the betterment of their community; and

Whereas, USA WEEKEND is working in partnership with The Points of Light Foundation to promote a national day of doing good;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 26, 1996, as MAKE A DIFFERENCE DAY in Illinois.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-440

SINGLE PARENTS DAY

Whereas, being a working single parent is a contradicting, yet rewarding task for the parent and child or children in a family; and

Whereas, single men and women have to work a full shift at their place of

employment, then prepare themselves for the next shift of work at home as single parents; and

Whereas, single parents have to go through the endless struggle of trying to be both mother and father to their child or children; and

Whereas, Mother's Day and Father's Day do not provide enough recognition for these parents;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 7, 1996, as SINGLE PARENTS DAY in Illinois in honor of the men and women who dedicate their lives to their children and their prosperity.

Issued by the Governor August 30, 1996.

Filed by the Secretary of State September 6, 1996.

96-441

CONSTITUTION WEEK

Whereas, our founding fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

Whereas, it is of the greatest importance that all citizens fully understand the provisions and principles contained in the Constitution in order to support it, preserve it, and defend it against encroachment; and

Whereas, the 209th anniversary of the signing of the Constitution provides an historic opportunity for all Americans to realize the achievements of the framers of the Constitution and the rights, privileges, and responsibilities it affords; and

Whereas, the independence guaranteed to American citizens, whether by birth or naturalization, should be celebrated by appropriate ceremonies and activities during Constitution Week as designated by proclamation of the President of the United States of America in accordance with Public Law 915;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 17-24, 1996, as CONSTITUTION WEEK in Illinois and urge all citizens to acknowledge the importance of our Constitution and the benefits of American citizenship.

Issued by the Governor September 3, 1996

Filed by the Secretary of State September 6, 1996.

96-442

KIDS VOTING DAY

Whereas, Kids Voting USA is a national grassroots, nonpartisan voter education program which is led by a board of civic and business leaders, including parents, schools and community volunteers. It was founded in Arizona in 1988 to address citizen apathy on an issue that is fundamental to a democracy, the importance of voting; and

Whereas, the Kids Voting project has expanded to include 41 states and will reach 5 million students and 200,000 teachers in 6,000 schools in time for the 1996 presidential election; and

Whereas, Kids Voting Illinois was incorporated in March 1996 as a pilot program that will seek to educate students in our state about the importance of becoming an informed electorate; and

Whereas, in order to accomplish this goal, Kids Voting Illinois supplies curriculum to the participating schools where the educational portion of the

program is implemented by the teacher, with parents and communities participating as a result of their children's enthusiasm for the election process; and

Whereas, both children and parents are encouraged to cast a ballot on Election Day and the results of the Kids Voting ballots will be tabulated and reported to the media; and

Whereas, because the opportunity for children to learn about the political process is valued in a democratic society, each participating state celebrates with a ceremony on National Kids Voting Day, September 24, in order to highlight this ideal;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 24, 1996, as KIDS VOTING DAY in Illinois.

Issued by the Governor September 3, 1996.

Filed by the Secretary of State September 6, 1996.

96-443

YWCA WEEK WITHOUT VIOLENCE

Whereas, YWCAs in Illinois have provided more than 100 years of continuous service to the women and children of the state; and

Whereas, the YWCA has a long history of empowering women and families, fostering racial justice and preventing violence; and

Whereas, the YWCA seeks to unify and inform people about existing alternatives to violence at YWCAs, schools, community organizations and workplaces; and

Whereas, the YWCA is sponsoring the second annual "YWCA Week Without Violence" in communities across the country which challenges every American to live for one week without perpetrating or participating in violence by finding non-violent ways to deal with anger and resolve conflicts; and

Whereas, each day of the week will focus on a different set of issues relating to violence, including school safety, child protection, domestic violence, and race and hate crimes; and

Whereas, the campaign will give thousands of people in Illinois the opportunity to act against the epidemic proportions of violence in their lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 6-12, 1996, as YWCA WEEK WITHOUT VIOLENCE in Illinois in recognition of the desire of the people of Illinois to live their lives without fear of violence.

Issued by the Governor September 3, 1996.

Filed by the Secretary of State September 6, 1996.

96-444

DR. HECTOR GARCIA DAY

Whereas, this past July, Dr. Hector Garcia, a physician and surgeon, long-time civil rights advocate and founder of the American G.I. Forum, passed away at the age of 82 at the hospital named in his honor in Corpus Christi, Texas; and

Whereas, Dr. Garcia served our nation with honor and distinction since 1942 when he was first awarded the Bronze Star Medal with Six Battle Stars for bravery as an infantry officer in World War II; and

Whereas, as founder of the American G.I. Forum, Dr. Garcia provided a mechanism to recognize the valor of the thousands of veterans of Mexican and Latin American descent who had served in the Armed Forces of the United States; and

Whereas, regarded and respected as an expert on Mexico and Latin America, Dr. Garcia has, over the years, served as a presidential appointee to various committees, having been appointed to these posts by Presidents Kennedy, Johnson, and Carter. In addition, Dr. Garcia served as a delegate to the United Nations with the rank of Ambassador and served as a commissioner of the United States Commission on Civil Rights; and

Whereas, in 1984, Dr. Garcia was honored by President Ronald Reagan with the Presidential Medal of Freedom, the highest civilian award that could be awarded by the President of the United States; and

Whereas, Dr. Garcia, an acclaimed humanitarian, has been recognized over the years for his commitment to improving the lives of individuals throughout the United States by numerous local and international organizations and heads of state, including the awarding in 1990 of the Equestrian Order of Pope Gregory the Great by His Holiness, Pope John Paul II;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 25, 1996, as DR. HECTOR GARCIA DAY in Illinois in recognition of his outstanding contributions over the last 50 years.

Issued by the Governor September 4, 1996.

Filed by the Secretary of State September 6, 1996.

96-445

HARRY A. THIEL DAY

Whereas, people learning all aspects of journalism have come to know and respect Harry A. Thiel; and

Whereas, Harry A. Thiel is retiring from his position of General Manager at the Daily Vidette at Illinois State University after 20 years of dedicated service; and

Whereas, Mr. Thiel has held positions of reporter, copy editor, and state editor at respected journalism organizations throughout the state such as the State Journal-Register, the Kankakee Daily Journal, the Rockford Morning Star, and the LaSalle Tribune; and

Whereas, Mr. Thiel's influence on young writers, editors, and other students can be seen from the success graduates of the Daily Vidette have nationwide in their individual careers; and

Whereas, Mr. Thiel plans to continue using his writing and editing talents with his wife, Jo, at his side, camera in hand, during his retirement years, thus influencing more journalists and editors in the process;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 14, 1996, as HARRY A. THIEL DAY in Illinois.

Issued by the Governor September 4, 1996.

Filed by the Secretary of State September 6, 1996.

96-446

HISPANIC ILLINOIS STATE LAW ENFORCEMENT DAY

Whereas, the Hispanic Illinois State Law Enforcement Association (HISLEA) is a nonprofit organization whose primary objective is to offer support to

Hispanic law enforcement officers; and

Whereas, HISLEA works closely with other Hispanic organizations to ensure that Hispanics are treated fairly and are considered for top administrative appointments; and

Whereas, HISLEA, along with the United States Marine Corps and various other police agencies, supported the Toys for Tots campaign and worked with Mujeres Latina En Accion in Domestic Violence and Child Abuse Awareness training; and

Whereas, HISLEA grants scholarships for graduating high school students pursuing a college education in law enforcement;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 11, 1996, as HISPANIC ILLINOIS STATE LAW ENFORCEMENT DAY in Illinois in recognition of the efforts the association has made to advance law enforcement careers and provide service to our citizens.

Issued by the Governor September 4, 1996.

Filed by the Secretary of State September 6, 1996.

96-447

ILLINOIS JUDICIAL COUNCIL DAY

Whereas, the Illinois Judicial Council is primarily comprised of our state's African-American and Hispanic judges and judicial officers; and

Whereas, many more African-American judges have been given the opportunity to be elected to the bench in Cook County as a result of the signing of the judicial redistricting bill; and

Whereas, the council takes part in many charitable and philanthropic activities to assist the less fortunate individuals in our communities; and

Whereas, the Illinois Judicial Council has "adopted" a Chicago Housing Authority building. The council provides the residents with food and toys at Christmas, maintains a library in the building, and occasionally visits residents; and

Whereas, the council has demonstrated a commitment to education. It operates a speakers bureau for schools, cosponsors a high school Law Day program with the Cook County Bar Association, and awards scholarships to law students; and

Whereas, the Illinois Judicial Council is holding its Annual Awards and Installation Banquet on October 4, 1996, at the Palmer House Hilton Hotel in Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 4, 1996, as ILLINOIS JUDICIAL COUNCIL DAY in Illinois and commend the council on its efforts to improve the quality of life for our citizens.

Issued by the Governor September 4, 1996.

Filed by the Secretary of State September 6, 1996.

96-448

IRON OVERLOAD AWARENESS WEEK

Whereas, in Illinois, 57,500 residents are estimated to carry the double genes that lead to storage of dangerous levels of iron; and

Whereas, 13 percent of the population carry a single gene for the metabolic abnormality; and

Whereas, the condition, iron overload, can affect various organs and the

joints; and

Whereas, the detection of iron overload is simple but the disease can be deadly if it is not caught and treated;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 15-21, 1996, as IRON OVERLOAD AWARENESS WEEK in Illinois.

Issued by the Governor September 4, 1996.

Filed by the Secretary of State September 6, 1996.

96-449

TREATMENT WORKS MONTH

Whereas, alcohol and other drug abuse and dependence are complex problems that are preventable and treatable; and

Whereas, the disease of alcoholism and substance abuse is a serious health problem that affects every community and demographic group; and

Whereas, treatment can lead to increased employment stability, improved school performance, healthier relationships, higher self-esteem and more productive, positive citizenship; and

Whereas, research continues to demonstrate that "TREATMENT WORKS", providing higher quality of life for those in recovery and for their families and associates, and that investing in treatment yields positive cost-benefits for Illinois taxpayers; and

Whereas, thousands of community-based health-care providers are dedicated to the recovery process and work to educate the public about alcoholism, substance abuse and treatment issues;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 1996 as TREATMENT WORKS MONTH in Illinois and urge citizens to support this worthy effort.

Issued by the Governor September 4, 1996.

Filed by the Secretary of State September 6, 1996.

Rules acted upon during the quarter of July 1 through September 30, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jatala@ccgate.sos.state.il.us (Internet address).

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